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**ANNUAL
REPORT
TO THE
ILLINOIS
GENERAL
ASSEMBLY**

**JOINT
COMMITTEE
ON
ADMINISTRATIVE
RULES**



JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

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EP. SAM VINSON

VICE-CHAIRMAN
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JEREMIAH E. JOYCE
DORIS C. KARPIEL

HONORABLE MEMBERS OF THE 84th GENERAL ASSEMBLY

Ladies and Gentlemen:

We respectfully submit the 1985 Annual Report of the Joint Committee on Administrative Rules for your consideration. This report, as mandated by Section 7.10 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.10) contains the "findings, conclusions, and recommendations, including suggested legislation," issued by the Committee throughout 1985.

As the Co-Chairmen of the Joint Committee, we have witnessed the continued progress which the oversight process has made toward ensuring that government policies are open and available to the public. Like the Illinois Open Meetings Act and the Illinois Freedom of Information Act, the Illinois Administrative Procedure Act is designed to guarantee that the public's right to know is protected, and that public business is conducted in the daylight of public scrutiny.

Through the Joint Committee on Administrative Rules we, as elected representatives, are provided an opportunity to oversee and directly influence the content of rules and regulations which affect the citizens of Illinois. The Joint Committee also works to ensure fairness in agency actions by encouraging agencies to state their policies in uniform rules which are applied equally to everyone regulated.

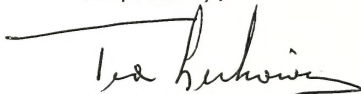
In addition to its other oversight functions, the Joint Committee presents its legislative agenda to the General Assembly each year. These bills are the result of problems with rules or policies which the Committee has determined will best be remedied through legislation. Also included in the Committee's legislative package is a proposed amendment to the Illinois Administrative Procedure Act which further clarifies and defines the rulemaking process. Our thanks to all of you who either supported or sponsored the Committee's recommended bills for 1985. The continued success of our legislative agenda is essential as we seek to strengthen and develop the oversight role.



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We encourage all members of the 84th General Assembly to take an active part in this vital oversight function. We welcome your suggestions and comments on specific agency rules as well as on the development of the role of the Joint Committee. Only as each of us as elected representatives becomes concerned and involved in the oversight process can the Committee, acting on your behalf, ensure that the intent of the legislation which we pass is upheld.

Respectfully,

A handwritten signature in dark ink, appearing to read "Ted Lechowicz", with a long horizontal line extending to the left.

Senator Ted Lechowicz

A handwritten signature in dark ink, appearing to read "Sam Vinson", with a stylized, cursive script.

Representative Sam Vinson

Co-Chairmen, Joint Committee on
Administrative Rules

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1985 ANNUAL REPORT

TABLE OF CONTENTS

	<u>Page</u>
List of Tables	iv
SECTION ONE: Joint Committee Activities	
Introduction	1
Review of General Rulemaking	7
Review of Emergency Rulemaking.	25
Review of Peremptory Rulemaking	35
Five Year Review	39
Complaint Review Program and Review of Existing Rules	47
Publications of the Joint Committee on Administrative Rules	71
Court Decisions	75
SECTION TWO: Specific Statements of Objection and Recommendation	
Introduction	85
1985 Objections and Recommendations to General Rules	87
1985 Objections and Recommendations to Emergency Rulemaking.	147
1985 Objections and Recommendations to Peremptory Rulemaking	157
1985 Objections and Recommendations Issues Pursuant to the Five Year Review	159
1985 Objections and Recommendations to Existing Rules	165
SECTION THREE: Legislative Activity	
Legislative Package for 1986	173
1985 Legislative Activity	439
APPENDIX A: History of the Joint Committee on Administrative Rules and the Illinois Administrative Procedure Act	447
APPENDIX B: Illinois Administrative Procedure Act	463

LIST OF TABLES

	<u>Page</u>
TABLE 1 Organization Chart	6
TABLE 2 General Rulemaking by Agency 1985.	18
TABLE 3 Statements of Objection and Recommendation Issued in 1985 to General Rulemaking.	20
TABLE 4 Objections to General Rulemaking by Type	22
TABLE 5 Emergency Rulemaking by Agency 1985.	31
TABLE 6 Statements of Objection and Recommendation Issued in 1985 to Emergency Rulemaking	32
TABLE 7 Objections to Emergency Rulemaking by Type.	33
TABLE 8 Peremptory Rulemaking by Agency 1985.	37
TABLE 9 Statements of Objection and Recommendation Issued in 1985 to Peremptory Rules.	38
TABLE 10 Statements of Objection and Recommendation Issued in 1985 to Rules as a Result of Five Year Review.	45
TABLE 11 Statements of Objection and Recommendation Issued in 1985 to Existing Rules	52
TABLE 12 83rd General Assembly Public Acts Which May Require Rulemaking.	55
TABLE 13 84th General Assembly Public Acts Which May Require Rulemaking.	56
TABLE 14 Comparison of General Rulemaking by Agency 1978 through 1985	453
TABLE 15 Comparison of Emergency Rulemaking by Agency 1980 through 1985	458
TABLE 16 Comparison of Peremptory Rulemaking by Agency 1980 through 1985	460
TABLE 17 Comparison of Agency Responses to Objections 1978 through 1985	461

SECTION ONE

JOINT COMMITTEE ACTIVITIES

Introduction

The Joint Committee on Administrative Rules was created in 1977 by the Illinois General Assembly as a mechanism for uniform oversight of the rulemaking process in Illinois. The role of the Joint Committee is best described in Section 7.04(1) of the Illinois Administrative Procedure Act: "The function of the Joint Committee shall be the promotion of adequate and proper rules by agencies and an understanding on the part of the public respecting such rules." This statement established two major responsibilities for the Joint Committee which have remained intact throughout its history: (1) working with State agencies to improve the rulemaking process and agency rules, and (2) promoting public understanding of the rulemaking process and of the rules themselves.

Members of the Joint Committee are appointed by the House and Senate leaders for a term of two years. Appointments are made in January, with officers elected by the members of the Joint Committee in February of each odd numbered year. Section 1-5 of the Legislative Commission Reorganization Act (Ill. Rev. Stat. 1984 Supp., ch. 63, par. 1001-5) outlines the Committee appointment procedures as well as those used for filling Joint Committee vacancies.

The involvement of the Joint Committee in the day-to-day operations of the Joint Committee's staff has proven essential to the overall effectiveness of the oversight process. Legislative oversight activities, more frequently than not, take a back seat to the more visible and personally rewarding issues dealt with by the legislator. Nevertheless, legislators have found that by utilizing the oversight process they are better able to represent their constituents while having an impact on government operations which directly affect the people of the State of Illinois.

Legislators who were appointed or reappointed to the Joint Committee during 1985 are:

Appointed by the President of the Senate:

Senator Emil Jones
Senator Jeremiah E. Joyce
Senator Ted Lechowicz

Appointed by the Senate Minority Leader:

Senator Prescott E. Bloom
Senator Laura Kent Donahue
Senator Doris Karpel

Appointed by the Speaker of the House:

Representative Michael Curran
Representative Monroe Flinn
Representative Ellis Levin

Appointed by the House Minority Leader:

Representative Tom McMaster
Representative Myron Olson
Representative Sam Vinson

The officers of the Joint Committee are elected to serve two year terms. The officers handle the business operations of the Joint Committee, including serving as the Personnel Committee for evaluating employee performance. Officers for the Joint Committee are:

Co-Chairmen:	Senator Ted Lechowicz Representative Sam Vinson
Vice-Chairman:	Senator Prescott E. Bloom
Secretary:	Representative Monroe Flinn

The Joint Committee staff is headed by an Executive Director who is selected by the Joint Committee on Legislative Support Services. The Executive Director is charged with the overall development, management, and operation of the staff of the Committee. The Director is assisted by two Deputy Directors, who each work in one of the Committee's Divisions. The Rules Review and Compliance Division is responsible for the review of proposed and existing rules. The Policy, Planning and Administration Division investigates complaints, develops and monitors legislation, compiles special Joint Committee projects and plans, and implements Committee organizational policies and objectives. Approximately one-half of the professional staff are attorneys

with the remainder as subject area specialists with such disciplines as social services, administration, policy analysis, political studies and public administration. Table One illustrates the organization of the Joint Committee staff. The Joint Committee's two responsibilities are accomplished through several integrated review programs.

1. REVIEW OF GENERAL RULEMAKING.

Each new rule, amendment to an existing rule and repeal of an existing rule proposed by a State agency is reviewed by the Joint Committee. This review, which must be accomplished within a strict 45 day time period, is primarily intended to ensure that new rulemaking proposals are within the agency's statutory authority and are legally proper and meet the procedural requirements of the Illinois Administrative Procedure Act.

2. REVIEW OF EMERGENCY AND PEREMPTORY RULEMAKING.

Emergency and preemptory rules are not required by the Illinois Administrative Procedure Act to be published in the Illinois Register for public notice and comment prior to becoming effective. The Joint Committee, however, firmly believes that due to the fact that these rules are not subject to the public comment period they must, therefore, be carefully reviewed in order to ensure that they comply with the statutory constraints that are placed upon them.

3. FIVE YEAR REVIEW OF ALL EXISTING RULES.

The Illinois Administrative Procedure Act requires the Joint Committee to conduct a systematic review of all existing rules of State agencies, regardless of when the rules were adopted. Rules reviewed during this process are grouped by topic, rather than by agency. This program complements the review of proposed rulemakings by providing an examination of rules by subject area to reduce areas of conflict and overlap between rules, and to eliminate obsolete rules.

4. COMPLAINT REVIEWS.

Formal complaints from the public concerning State agency rules may be submitted to the Joint Committee for investigation and possible action. Typically, these complaints allege that a rule is unauthorized or unreasonable, and result in a serious impact on the affected public. In certain instances,

the Joint Committee may issue a formal objection in response to a complaint. In addition to formal complaints, the Joint Committee staff is available to answer questions raised by members of the public regarding rules or the rulemaking process.

5. PUBLIC ACT REVIEW.

The Joint Committee reviews each new public act in order to determine the necessity for new or amendatory rulemaking. Each agency is informed in writing of any public act which affects the agency and which may require rulemaking. The Joint Committee monitors each agency response in order to ensure that all public acts are implemented and promptly translated into rules whenever necessary.

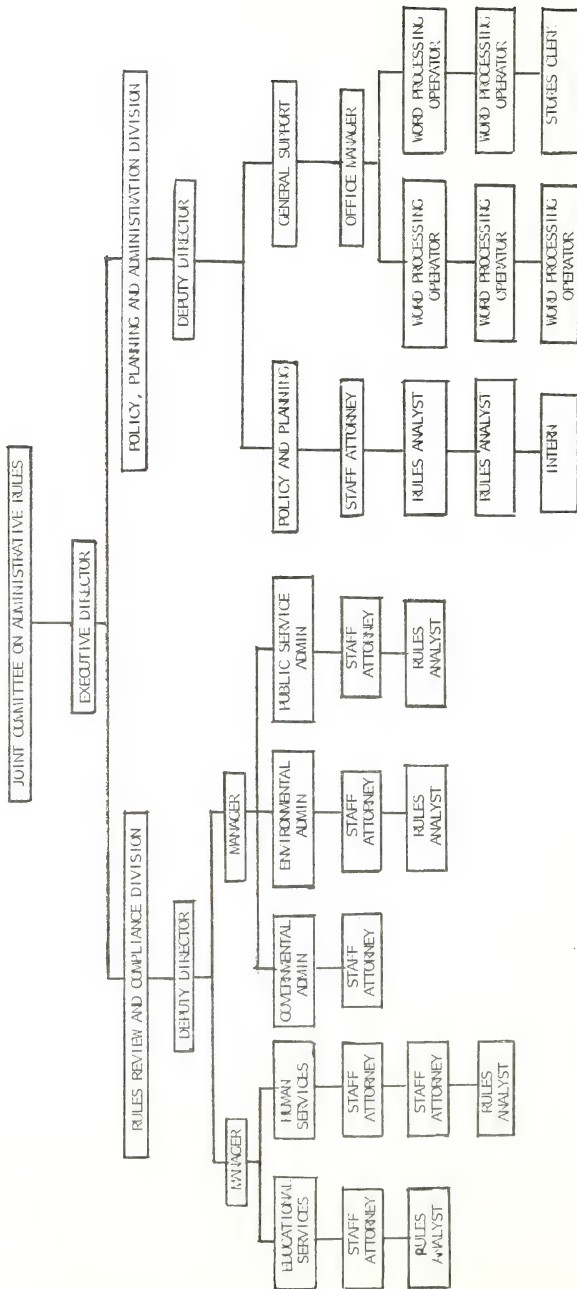
It is with the public in mind, that the Joint Committee staff has drafted the 1985 Annual Report. This report, as well as the previous yearly reports, serves as a research tool of the oversight process. The 1985 Annual Report has been divided into three sections and several appendices. Section One, pages 1 - 82, contains a narrative of the Joint Committee's activities for 1985, as well as a statistical summary of rulemaking actions taken by State agencies. Tables present the statistical breakdown by agency and the type of rulemaking action that was taken.

Summaries of the formal statements of objection and recommendation issued by the Joint Committee during 1985 can be found in Section Two, pages 85 - 171. These statements were published in the Illinois Register at the time they were were issued and are organized in this report by agency along with background information relating to the history of the rulemaking. Section Three, which begins on page 173, includes the legislation recommended by the Joint Committee for consideration during the 1986 appropriation session of the 84th General Assembly. In addition, a summary of the Joint Committee drafted and sponsored bills which were passed by the 84th General Assembly and which have become law during the substantive session have been included in this section. All Joint Committee legislation is the result of the review of agency rules.

Appendix A, pages 447 - 461, contains a historical overview of the Joint Committee as well as pertinent statistics of Joint Committee activity throughout the years.

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ORGANIZATION CHART



REVIEW OF GENERAL RULEMAKING

The Joint Committee reviewed 538 general rulemakings promulgated by state agencies during 1985. An average of 39 proposals was considered by the Committee at each of its monthly meetings. The Committee issued 128 formal objections to 78 of the proposals, and 73 recommendations to 56 general rulemakings (see TABLE 3, pages 20-21). The Joint Committee's review resulted in changes to virtually every proposal. Changes varied from minor drafting and editing revisions to extensive, substantive rewrites of agency rules.

As seems to be the pattern, the level of rulemaking considered by the Joint Committee has once again been high. This section discusses the general rulemaking process, the criteria used by the Committee in evaluating rules, and a summary of some of the significant rulemakings considered by the Committee, as well as objections and recommendations issued by the Committee in 1985.

General Rulemaking Process

Section 5.01 of the Illinois Administrative Procedure Act governs the general rulemaking procedures of state agencies. General rulemaking is all rulemaking which is not: (1) related solely to internal agency management, (2) an emergency rulemaking as defined by Section 5.02 of the Act, or (3) a peremptory rulemaking as defined by Section 5.03 of the Act.

Section 5.01(a) of the Act sets forth specific requirements governing how first notices must appear in the Illinois Register. Among other things, the agency is required to publish the full text of the proposed rule, amendment, or the material to be repealed. There are also requirements relative to public comment by which the agencies must abide when submitting first notice material for the Illinois Register.

Agencies are required to give at least 45 days' notice of their intended rulemaking action to the general public. This period of time is referred to as the "first notice" period. The first notice period begins on the day that the notice of a general rulemaking appears in the Illinois Register.

The primary purpose of the first notice period is to provide an opportunity for comment by members of the public when they are affected by a general rulemaking. Each first notice contains information as to the time, place and manner in which persons may comment upon the rulemaking. By law, agencies are required to consider all public comments received within the first 14 days after the first notice period has commenced. In addition, agencies are required to consider all comments received pursuant to requests to comment submitted within the fourteen day time period provided that such comments are received in writing within a reasonable time. Agencies may extend the period during which comments from members of the public will be accepted, and many agencies allow between 30 to 45 days for submission of such comments.

Section 5.01 of the Illinois Administrative Procedure Act requires agencies to hold a public hearing whenever the agency finds that a public hearing would elicit public comment which might not otherwise be submitted. In addition to agency-initiated public hearings, the Act requires agencies to hold a public hearing whenever the agency receives a request for a hearing within 14 days of publication of the notice of general rulemaking in the Illinois Register from 25 interested persons, an association representing at least 100 persons, the Governor, the Joint Committee on Administrative Rules, or a unit of local government.

Following the expiration of the first notice period, agencies are required to provide a "second notice" period. The second notice period allows for the review of the general rulemaking by the Joint Committee. The agency proposing the rulemaking is required to present to the Joint Committee a written request for commencement of the second notice period. The specific form of this notice is set forth in Section 5.01(b) of the Act. The second notice period commences on the date that this formal second notice is received and accepted as being complete and in proper form by the Joint Committee, and extends for a maximum of 45 days.

The Joint Committee will not accept a second notice unless it contains the following information: (1) the text and location of any changes in the general rulemaking made during the first notice period; (2) a final regulatory

flexibility analysis of the effects of the rulemaking on small businesses; (3) an analysis of the economic and budgetary effects of the rules, if one is requested by the Committee within 30 days of the commencement of first notice; (4) an evaluation of all comments regarding the general rulemaking received during the first notice period; (5) an analysis of the anticipated effects of the general rulemaking; and (6) a justification and rationale for the general rulemaking.

Following the acceptance of the required second notice submissions, the review of the general rules by the Joint Committee begins in earnest. The review of the general rules is based upon the criteria set forth in Sections 220.900 and 220.950 of the Operational Rules of the Committee (1 Ill. Adm. Code 220.900, 200.950). A list of the review criteria is found on page 10. Pursuant to the review criteria, the Joint Committee develops written questions based upon a review of the rules. The agency responses to these questions are evaluated, and any responses which do not appear to adequately address the questions raised are presented in the form of recommendations for Joint Committee action. These recommendations vary to fit the particular circumstances. The Joint Committee can object to a general rule, suspend the rule (in very limited circumstances), recommend legislation, or recommend further action. If the Committee finds that all issues and problems are satisfactorily resolved, the Committee will issue a "Certification of No Objection" which permits agencies to adopt the general rules.

In the event that recommendations for objection are adopted by the Joint Committee, the agency has 90 days in which to respond. The agency may modify the rules in response to the Committee's objection, refuse to modify the rules, or withdraw the general rules. Failure of an agency to respond to a Committee objection within 90 days results, by operation of law, in an automatic withdrawal of the general rules. Both the Committee's statement of objection, and the agency's response to the objection are published in the Illinois Register. Agency responses to Committee objections, along with evaluations of those responses, are presented to the Committee for review at a scheduled meeting of the Committee, and may result in additional Committee action. Agencies are free to adopt rules subsequent to a response to a Committee objection.

Agencies are requested to respond to Joint Committee recommendations. However, the failure of an agency to respond to a recommendation does not result in the automatic withdrawal of the rules. Responses to recommendations are published in the Illinois Register and are evaluated and reviewed by the Joint Committee. TABLE 3 (pages 20-21) illustrates, by agency, the number of objections and recommendations issued by the Joint Committee and the agencies' responses to them. TABLE 4 (pages 22-23) breaks down the objections by type, and illustrates the number of responses received for each type.

Review Criteria

The Joint Committee utilizes the criteria for review listed in Section 220.900 of the Committee's Operational Rules. The factors which the Committee considers during the systematic review of the general rulemaking can be summarized as follows:

1. Legal authority for the general rulemaking.
2. Compliance of the general rulemaking with legislative intent and statutory authority.
3. Compliance with state and federal constitutional requirements and other law.
4. Inclusion of adequate, clear standards and criteria for each exercise of discretionary power.
5. Presence of a statement of justification and rationale for the general rulemaking.
6. Consideration of the economic and budgetary effects of the general rulemaking.
7. Clarity of the language of the general rulemaking.
8. Presence of redundancies, grammatical deficiencies and technical errors in the general rulemaking.
9. Compliance with the requirements of the Illinois Administrative Procedure Act.
10. Compliance with the requirements of the Secretary of State's Administrative Code Unit.
11. Compliance with additional requirements imposed by state and/or federal laws.
12. Compliance with the agency's rulemaking requirements.

13. Agency responsiveness to public comments received concerning the rulemaking proposal.
14. Compliance with the Regulatory Flexibility requirements contained in Section 4.03 of the Illinois Administrative Procedure Act.

Significant Rulemakings for 1985

All of the statements of objection or recommendation which were issued by the Joint Committee in 1985 have been summarized in Section Two of this report, see pages 87 - 171. Several of the more salient issues handled by the Committee during 1985 are discussed in the following pages.

Attorney General

The Joint Committee considered the Attorney General's rules entitled "Programmatic and Fiscal Requirements for Administering Funds Under the Violent Crime Victims Assistance Act" at its October 16, 1985 meeting. The general rulemaking, which was identical to an emergency rulemaking which was in effect at the time of the review, implements the Violent Crime Victims Assistance Act which became effective on January 1, 1984. The rulemaking proposed requirements for the receipt and use of State grants by public and non-profit agencies. The grants which are provided through the Violent Crime Victims' Assistance Fund are the result of fines which are imposed by the court when it enters a conviction of a scheduled offense. The rulemaking also described eligibility criteria, personnel requirements, fiscal monitoring, and audit requirements. Also provided within the rules are suggestions on program content and procedures which are to serve as "model" programs for agencies. These models include sexual assault and domestic violence programs. No recommendations or objections were issued and the Committee determined that no further action was necessary for this rulemaking, although numerous changes were made in the rule during the review process.

Department of Commerce and Community Affairs

At the July 25, 1985 meeting, the Joint Committee reviewed the comprehensive guidelines and procedures by which the Department of Commerce and Community Affairs administers the Enterprise Zone Program which is authorized by the Illinois Enterprise Zone Act. The program allows for government controls to be relaxed, and tax incentives to be provided in

depressed areas for the purpose of stimulating business and industrial growth as well as the revitalization of neighborhoods. The rules, as reviewed by the Joint Committee, identify eligible enterprise zone applicants, eligibility criteria as well as the review and evaluation of applications. The rules also provide application guidelines and provisions for zone boundary changes. Designated zones are described in terms of eligibility, Departmental approval, and charitable contributions. Finally, the rules address the local responsibilities which include reporting, monitoring, and administering of the Enterprise Zone Program. The Joint Committee did not object to the Department's rules.

Department of Conservation

The Joint Committee considered, and issued three objections and two recommendations to the Department of Conservation's rules entitled "Historic Preservation Grants-In-Aid" at the February 21, 1985 meeting.

The first objection cited the Department's failure to accurately set forth its policies relative to imposing sanctions upon those who do not comply with the Grants-In-Aid program. The Department had included federal sanctions in its rules which the Department believed were required by the National Park Service, in addition to incorporating the sanction procedures set forth in the Illinois Grant Funds Recovery Act. However, in certain respects, the federal sanctions and State sanction procedures were in conflict. The Committee recommended that the Department contact the National Park Service in order to resolve the conflict. The Park Service notified the Department that the federal sanctions did not have to be included in the rules, and the Committee then suggested that the Department initiate rulemaking to delete the federal sanctions.

The second objection issued by the Joint Committee was based upon the failure of the Department to comply with the requirements for incorporation by reference pursuant to Section 6.02 of the Illinois Administrative Procedure Act. The Department was incorporated into its rule OMB Circulars A-87 and A-110. These circulars are not "rules or regulations" of an agency of the United States and therefore cannot be incorporated. The Department was advised by letter that it should amend Section 310.50 to incorporate by reference the specific federal regulation involved. The Department of

Conservation did not respond to the May 28, 1985 correspondence due to the fact that the administration of the Historic Preservation Grants-In-Aid Program was transferred to the Department of Historic Preservation on July 1, 1985. The Committee has contacted the Department of Historic Preservation in regard to these rules. In addition, the Illinois Administrative Procedure Act has been amended to allow for the incorporation of standards and guidelines of agencies of the United States, in certain instances (P.A. 84-784, effective January 1, 1986).

The Joint Committee also objected to the Department's Grants-In-Aid Program because the proposed rules failed to include the standards that will be used by the Department in determining what project proposals will receive grant awards. The Department did not modify or withdraw the rules based upon the anticipated promulgation of rules by the Department of Historic Preservation regarding the selection procedures.

Finally, in addition to the recommendation issued in response to the Committee's first objection, it also recommended that the Department initiate rulemaking to include within the rules its policies concerning application procedures and project evaluation. The Department once again anticipated that these areas would be addressed by the Department of Historic Preservation.

Environmental Protection Agency

On August 28, 1985, the Joint Committee objected to three general rulemakings of the Environmental Protection Agency entitled "Procedures for Measuring Emissions of Particulate Matter from Stationary Sources," "Procedures for Measuring Emissions of Carbon Monoxide," and "General Procedures for Stack Testing." The Committee issued a total of 4 objections and 3 recommendations to the rulemakings as follows:

The Committee issued three objections to rules based upon the Agency's lack of statutory authority to promulgate such rules. It has been, and continues to be, the opinion of the Joint Committee that Section 10(g) of the Environmental Protection Act grants the Pollution Control Board the specific rulemaking authority for monitoring sources of air pollution.

The Joint Committee issued the fourth objection based on the fact that the agency had made a substantive change to the rulemaking after its publication in the Illinois Register, not in response to public comment. Such action on the part of any agency circumvents the public notice and comment provisions of Section 5.01 of the Illinois Administrative Procedure Act.

In response to each of its objections based upon the lack of statutory authority, the Joint Committee issued recommendations directing the Committee staff to draft legislation to clarify the Environmental Protection Agency's authority, or lack thereof, to promulgate as rules, procedures for monitoring contaminant discharges of sources of air pollution and collection samples, for monitoring contaminant discharges. A copy of each legislative proposal appears in Section Three of this report.

Department of Public Aid

Two recommendations for legislation were issued by the Joint Committee at its April 16, 1985 meeting. The recommendations were in response to the Department of Public Aid's general rules concerning Medical Payment under the Illinois Competitive Access and Reimbursement Equity (ICARE) Program.

The first recommendation advised the Department to seek legislation amending the Illinois Health Finance Reform Act to grant the Department the statutory authority to require hospitals to agree to the enforcement of a pledge of confidentiality by the issuance of a preliminary or permanent injunction, or other court order, and to limit the form of recordkeeping allowed during negotiating sessions. The Department declined to seek legislation stating that it believed that the Illinois Health Finance Reform Act already provides the Department with the authority to require court enforceable pledges of confidentiality, as well as the power to limit recordkeeping. Due to the Department's refusal, the Joint Committee directed staff to draft the appropriate legislation for consideration during the 1986 spring session of the General Assembly. A copy of that proposal appears in Section Three of this report.

The Department of Public Aid responded positively to the Joint Committee's recommendation that it seek legislation to amend the Illinois Health Finance

Reform Act to allow it to enter into contracts under the ICARE program with hospitals located outside the boundaries of Illinois. The Department has amended the Illinois Health Finance Reform Act to meet the Joint Committee's recommendation via Senate Bill 103 which was signed into law by the Governor on September 14, 1985, as P.A. 84-0325.

The Joint Committee also considered the Department of Public Aid's Food Stamp rules entitled "Amount of Benefits" at its April 16, 1985 meeting. The Committee voted to object to that rulemaking because, contrary to federal law and regulations, the Department, in determining eligibility for the food stamp program, considers the penalty amount for failure to comply with a federal, state, or local welfare program as available unearned income without determining whether the failure to comply was intentional. The Committee directed its staff to contact the United States Department of Agriculture to seek clarification as to the proper interpretation of federal food stamp regulations. A response was received by the Joint Committee from the Secretary of Agriculture John Block on July 15, 1985. Secretary Block confirmed that the Department of Public Aid cannot determine that all client failures to comply with a welfare program are intentional. The Secretary advised that the regional office of the U.S.D.A. would aid the Department of Public Aid in clarifying the procedures.

Department of Public Health

At the September 17, 1985 meeting, the Joint Committee on Administrative Rules objected to the Department of Public Health's rulemaking entitled "Hospice Programs." The Joint Committee issued three objections to the rules all based upon a lack of statutory authority on the part of the Department to promulgate such rules. Specifically, the Joint Committee objected to the Department's lack of authority to: (1) issue a hospice license to a hospice program which is not in compliance with the Hospice Program Licensing Act and the Department's rules governing hospice programs based upon the submission of a plan of correction by the hospice; (2) require hospices to be subject at all times to inspection by the Department of Public Health; and (3) delegate to hospices the authority to determine the number and qualifications of persons providing direct hospice services.

In addition, the Joint Committee issued a recommendation directing staff to develop legislation in response to the Committee's first objection. The legislation would provide the Department with the authority to issue a hospice license to a hospice program which is not in compliance with the Hospice Program Licensing Act and the Department's rules governing hospice programs. A copy of the legislative proposal appears in Section Three of this report.

Department of Rehabilitation Services

The Joint Committee issued two objections at its May 14, 1985 meeting to the rules of the Department of Rehabilitation Services governing the "Vending Stand Program for the Blind." The Department responded by refusing to modify the rules to meet the objections of the Joint Committee.

The Committee voted to object to the Vending Stand Program for the Blind because the Department overregulates "self-employed" vending stand operators. Overregulation on the part of the Department violates the legislative intent of Section 2 of "An Act in relation to the operation of vending facilities on public and private property by blind persons, and to repeal certain Acts herein named" (Ill. Rev. Stat. 1983, ch. 23, par. 3331 et seq.)

The Committee's second objection to the Vending Stand Program for the Blind was issued because, contrary to Section 4.02 of the Illinois Administrative Procedure Act, the rules did not include clear and precise standards to be used by the Department in determining whether a vendor will be suspended prior to an evidentiary hearing. In response to each objection, the Joint Committee directed staff to monitor the progress of the Department of Rehabilitation Services in reviewing its policies. In particular, the Committee has recommended that the Department review its policies in regard to "the self-employment" of blind vendors as well as the procedures used in determining cause for suspension.

TABLE 2
GENERAL RULEMAKING BY AGENCY 1985

Administrative Rules, Joint Committee on	3
Aging, Department on	4
Agriculture, Department of	15
Alcoholism and Substance Abuse, Department of	5
Attorney General	2
Auditor General	1
Capital Development Board	9
Central Management Services, Department of	10
Children and Family Services, Department of	14
Civil Service System, State Universities	1
Commerce and Community Affairs, Department of	29
Commerce Commission, Illinois	22
Community College Board, Illinois	2
Comptroller	1
Conservation, Department of	34
Corrections, Department of	1
Court of Claims	1
Criminal Justice Information Authority, Illinois	1
East St. Louis, Board of Trustees of the State Community College of	
Education, Board of Higher	5
Education Loan Authority, Illinois Independent Higher	1
Education, State Board of	12
Elections, State Board of	1
Employment Security, Department of	13
Energy and Natural Resources, Department of	3
Environmental Protection Agency	10
Experimental Organ Transplantation Procedures Board, Illinois	1
Export Development Authority	
Farm Development Authority, Illinois	1
Financial Institutions, Department of	4
Fire Marshal, Office of the State	3
Governor's Purchased Care Review Board	1
Guardianship and Advocacy Commission	3
Health Care Cost Containment Council	10
Health Facilities Planning Board	1
Housing Development Authority, Illinois	5
Illinois, Board of Trustees of the University of	1
Industrial Commission	7
Insurance, Department of	9
Labor, Department of	3
Labor Relations Board, Illinois Educational	3
Labor Relations Board, Illinois Local	1
Labor Relations Board, Illinois State	1
Law Enforcement Merit Board, Department of	1
Mental Health and Developmental Disabilities, Department of	8
Military and Naval Department	1
Mines and Minerals, Department of	7
Nuclear Safety, Department	3

TABLE 2
GENERAL RULEMAKING BY AGENCY 1985
(continued)

Pollution Control Board	32
Prisoner Review Board	1
Property Tax Appeal Board (1)	1
Public Aid, Department of	94
Public Health, Department of	25
Racing Board, Illinois	13
Registration and Education, Department of	16
Rehabilitations Services, Department of	13
Retirement System of Illinois, State Employees'	3
Retirement System of The State of Illinois, Teachers'	2
Revenue, Department of (1)	7
Savings and Loan Associations, Commissioner of	2
Scholarship Commission, State	14
Secretary of State	19
Select Joint Committee on Regulatory Agency Reform	
State Police, Department of (formerly the	
Department of Law Enforcement)	2
Transportation, Department of	16
Travel Control Board, Higher Education	1
Treasurer	1
	<hr/>
TOTAL	538

(1) The Property Tax Appeal Board became an agency separate from the Department of Revenue in 1985.

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Agency	Number of Objections	Response to Objections				Response to Recommendations				
		Modify	Refuse	Agency Withdrawal	Pending	Number of Recommendations	Agree	Disagree	Failure to Respond	Pending
Aging, Department on	1				1					
Agriculture, Department of	1		1							
Capital Development Board	2	1	1							
Central Management Services, Department of	6	1			5	2				2
Children and Family Services, Department of	4				4	3	3			
Commerce and Community Affairs, Department of	5	2	4			3	2		1	
Commerce Commission, Illinois	7	2	2		3	3			2	1
Community College Board, Illinois	5		4		1	3	2			1
Conservation, Department of	7		5	1	1	7	5	1		1
Education, State Board of	2	1	1			2	2			
Elections, State Board of	5	3			2	4	2			2
Employment Security, Department of	1	1				1				1
Environmental Protection Agency	8	1	6		1	7		6		1
Farm Development Authority, Ill.						1			1	
Financial Institutions, Department of						1	1			
Human Rights Commission	8		8							
Human Rights, Department of	6		6							
Industrial Commission	1		1			1		1		
Insurance, Department of	1		1			3	1	2		
Labor, Department of	1				1					
Labor Relations Board, Illinois Educational	1		1			1	1			
Minerals and Minerals, Department of	7		5		2					
Nuclear Safety, Department of	3	1			2	1				1
Pollution Control Board	3		2		1	1	1			
Prisoner Review Board	2	2								
Public Aid, Department of	11	2	7		2	14	2	4		8
Public Health, Department of	3		3			4	1			3
Registration and Education Department of	8	1	5		2	1			1	
Rehabilitation Services, Department of	2		2							

STATEMENTS OF OBJECTION AND RECOMMENDATION ISSUED IN 1985 TO GENERAL RULEMAKING
(continued)

Agency	Number of Objections	Response to Objections				Number of Recommendations	Response to Recommendations		
		Modify	Refuse	Agency Withdrawal	Pending		Agree	Disagree	Failure to Respond
Retirement Systems, Teachers Revenue, Department of	6			1	5	1	1		
Scholarship Commission	5		2		3	3		2	1
Secretary of State	3	1	2			5	3	1	1
State Police, Illinois	2				2				
Veterans' Affairs, Department of	1	1				1	1		
TOTAL	128 *	20	69	2	38	73	28	15	7
									23

* The number of objections is less than the responses to objections because in several cases, agencies responded to the objections in more than one way.

TABLE 4

OBJECTIONS TO GENERAL RULEMAKING BY TYPE

Type of Objection	Number of Objections	Response to Objection			Failure to Respond	Pending
		Modify	Refuse	Agency Withdrawal		
Standards and Criteria (Section 4.02)	50	12 (24.0%)	16 (32.0%)	1 (2.0%)	-	21 (42.0%)
Statutory Authority	41	4 (9.8%)	26 (63.4%)	1 (2.4%)	-	10 (24.7%)
General Rulemaking Procedures (Section 5.01)	8	-	8 (100%)	-	-	-
Conflicts with Authorizing Statute	9	3 (33.3%)	2 (22.2%)	-	-	4 (44.4%)
Violates Legislative Intent	6	-	3 (50.0%)	-	-	3 (50.0%)
Violates Federal Regulations	6	-	5 (83.3%)	-	-	1 (16.7%)
Rules Do Not Reflect Agency Policy	3	1 (33.3%)	1 (33.3%)	-	1 (33.3%)	-
Policies Not in Rules (Section 3.09)	2	-	2 (100%)	-	-	-
Incorporation by Reference (Section 6.02)	3	-	2 (66.7%)	-	-	1 (33.3%)
Violates Federal Laws	3	-	3 (100%)	-	-	-

TABLE 4
OBJECTIONS TO GENERAL RULEMAKING BY TYPE
(continued)

Type of Objection	Number of Objections	Response to Objection			Failure to Respond	Pending
		Modify	Refuse	Agency Withdrawal		
Rules Not Clearly Stated	3	-	2 (66.7%)	-	-	1 (33.3%)
Terminology Vague	2	-	2 (100%)	-	-	-
Lack of Adequate Justification and Rationale (Section 7.04(5)(d))	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1</u> (100%)
TOTAL	137*	20 (14.5%)	72 (52.5%)	2 (1.5%)	1 (0.8%)	42 (30.7%)

* Number of objections issued is less than objections classified by type because in numerous cases there is more than one basis for an objection.

REVIEW OF EMERGENCY RULEMAKING

Occasionally, agencies are confronted with situations where the general rulemaking process is not feasible, because the rulemaking must be done within a shorter period of time than that provided by the general rulemaking process. The Illinois Administrative Procedure Act contains two provisions which permit agencies to bypass the general rulemaking process. There are provisions for emergency rulemaking and for peremptory rulemaking. However, the use of these provisions is scrutinized by the Joint Committee because they permit an agency to circumvent the public notice and comment procedures required by the Act when the general rulemaking process is used. The following discussion explains the emergency rulemaking procedure, analyzes the total emergency rulemaking activity during 1985, and presents examples of emergency rulemaking by several State agencies.

Emergency Rulemaking

Section 5.02 of the Act authorizes the use of emergency rulemaking in certain instances. In order to utilize the emergency rulemaking process, an agency must first determine that a situation exists which threatens the public interest, safety or welfare, and which requires the adoption of a rule on fewer days notice than is required for general rulemaking. In such instances, the rule can be adopted immediately, without going through the public notice and comment period. Rules adopted through the use of this provision can remain in effect for a maximum of 150 days. There are, however, restrictions upon the use of emergency rulemaking. The emergency rule must contain only those provisions which are in direct response to the actual emergency. In addition, an agency may not adopt an emergency rule that has the same purpose and effect as any emergency rule adopted within the previous 24 months. Finally, despite the agency's ability to forgo the notice and comment period, the Act requires the agency to make reasonable efforts to inform the affected public about the emergency rulemaking. Through the procedure of emergency rulemaking, the Illinois Administrative Procedure Act provides agencies with the flexibility they need to respond to emergency situations, but balances this with the temporary nature of the emergency rule, and the restrictions placed upon it. The criteria used by the Joint Committee in reviewing emergency rules are found in Sections

230.400 and 230.500 of the Joint Committee's Operational Rules (1 Ill. Adm. Code 230.400 and 230.500).

Emergency Rulemaking Activity During 1985

State agencies adopted 73 emergency rules during 1985. (see TABLE 5, page 31) The Joint Committee issued 21 objections to 73 emergency rules and rulemakings during this year. (see TABLE 6, page 32). This is an increase from 1984, during which time 18 objections were issued to 78 emergency rulemakings. (see Appendix TABLE 15, pages 458 - 459). TABLE 7 (page 33) breaks down the objections issued by type and agency response. The greatest number of objections were based upon the fact that the emergency situation was agency created, and therefore emergency rulemaking could not be used (see Senn Park Nursing Center v. Miller), 118 Ill. App. 3d 504, 455 N.E. 2d 153 (Ill. App. 1 Dist., 1983), aff'd, 104 Ill. 2d 169, 470 N.E. 2d 1029 (1984) and the fact that the rule was not limited to the emergency situation. Although agencies are not required by law to respond to Joint Committee objections issued to emergency rulemakings, responses were received from three agencies. The Department of Public Aid agreed than an emergency rulemaking which was necessary to raise Medical Assistance - No Grant (MANG) standards also contained changes which were not related to the emergency. In addition, the Department of Public Aid, the Secretary of State, and the Treasurer issued 6 refusals to modify or withdraw emergency rulemaking. Agencies failed to respond to the 7 remaining objections. Several emergency rulemakings promulgated by State agencies are summarized in the following pages.

Attorney General

In an emergency rulemaking of interest, the Attorney General adopted "Programmatic and Fiscal Requirements for Administering Funds Under the Violent Crime Victims Assistance Act" (89 Ill. Adm. Code 1100) to implement the Violent Crime Victims Assistance Act (Ill. Rev. Stat. 1984 Supp., ch. 70, par. 501 et seq.). These rules described a program to fund community-based programs providing services to victims and witnesses of violent crimes. In an effort to inform affected members of the public about this emergency rulemaking, the Office of the Attorney General sent copies of the emergency rules to all agencies involved in a statewide needs assessment

survey on current levels of victim and witness services, to all agencies that had submitted funding requests, and all agencies that offered victim and/or witness services. The Office of the Attorney General explained that there had been insufficient funding and an inability to recruit trained staff during the period between the effective date of the Act and the starting date of the program, and that many existing programs would go out of existence if rules for funding were not established by April 15, 1985. No objection to the Attorney General's use of emergency rulemaking in this instance was issued by the Joint Committee.

Department of Commerce and Community Affairs

The Department of Commerce and Community Affairs adopted 5 emergency rules early in September, 1985 to implement several articles of The Build Illinois Act (Public Act 84-109, effective July 25, 1985). This Act was the Governor's comprehensive economic package designed to foster business development and modernize the infrastructure for private sector business in the State. The three emergency rulemakings entitled "Illinois Equity Investment Fund" (14 Ill. Adm. Code 600), "Illinois Small Business Development Program" (14 Ill. Adm. Code 570), and "Illinois Small Business Incubator Program" (14 Ill. Adm. Code 560) established programs to encourage the entrepreneurial efforts of small business and to assist small firms with business financing. The emergency rulemaking entitled "Illinois Large Business Development Program" (14 Ill. Adm. Code 590) established a program to assist large businesses with business financing. In addition, one emergency rulemaking entitled "Illinois Public Infrastructure Loan and Grant Program" (14 Ill. Adm. Code 610) also established a program to support the efforts of local government in economic development and creation of private sector jobs. The Department explained, as justification for the use of emergency rulemaking in each instance, that the immediate implementation of Public Act 84-109 was vital for the economic stability of the State because the programs were designed to create and retain jobs. No objections were issued by the Joint Committee to any of the Department's emergency rules.

State Board of Education

Between August and October 1985, the State Board of Education adopted nine emergency rulemakings in response to the 1985 Illinois educational reform

package, "An Act in relation to education reform and the financing thereof, amending Acts therein named" (Public Act 84-126, effective August 1, 1985). The Board explained that the emergency process was necessary because the Public Act made it clear that programs should be established as soon as possible. The first two emergency rulemakings, "Dismissal of Tenured Teachers" (23 Ill. Adm. Code 51) and "Dismissal of Tenured Teachers and Civil Service Employees Under Article 34" (23 Ill. Adm. Code 52), amended Board rules governing the dismissal proceedings of tenured teachers and civil service employees at the sections concerning notice and hearing rights. At the November 14, 1985 meeting, the Joint Committee issued two objections to a provision contained in the second of these emergency rulemakings. This provision allowed one party to reject all of the names contained on a list of prospective hearing officers and allowed the Board to provide a second list of prospective hearing officers. The objections stated that this provision was in conflict with The School Code. (Ill. Rev. Stat. 1983, ch. 122, par. 34-85, as amended by Public Act 84-126), and was not required by the emergency situation. The Board has not yet responded to these two objections. However, the Board proposed similar general rulemaking early in November, under Section 5.01 of the Illinois Administrative Procedure Act with the offending section deleted.

The Joint Committee found no problems with the seven remaining emergency rulemakings adopted by the State Board of Education in 1985. The first of these, entitled "Reorganization Committees" (23 Ill. Adm. Code 550), described the organization and function of Educational Service Regional Reorganization Committees, created to recommend, and allow voters to act upon, school district consolidation plans. The Board expanded this emergency rule with another emergency rulemaking to add sections establishing requirements for plan contents, hearings and to submit plans to the voters. The Board adopted an emergency amendment to rules entitled "Driver Education" (23 Ill. Adm. Code 252) to specify the fee that school districts can charge and to clarify included services. The Board explained that the new authorization corrected inequities in fee assessment and protected the welfare of students who are not able to afford the fees assessed by local school districts. Emergency rulemaking entitled "Educational Service Centers" (23 Ill. Adm. Code 500) established procedures for a network of

educational service centers to coordinate and combine services such as gifted education, computer technology, mathematics, science, and reading resources and several optional programs. The Board adopted an emergency rulemaking "Reading Improvement Program" (23 Ill. Adm. Code 260) to fund reading improvement programs in local school districts. An emergency rulemaking, "Staff Development Plans and Programs" (23 Ill. Adm. Code 30) was adopted to explain the procedures and criteria used by the Board to approve and fund school district staff development programs. In addition, the Board adopted an emergency rulemaking entitled "Truant's Alternative and Optional Education Programs" (23 Ill. Adm. Code 205) to fund local pilot projects to encourage school attendance by dropouts, truants, and unmotivated students. In reference to this last program, the Board explained that a program to encourage school attendance had been in effect for some time, however, Public Act 84-126 gave the Board rulemaking authority for the first time in the area.

Illinois Educational Labor Relations Board

The Board adopted emergency rules entitled "Fair Share Fee Objections" (80 Ill. Adm. Code 1125), to describe procedures by which the Board would resolve disputes that arose over fair share fee payments by non-union employees who were assessed such fees pursuant to collective bargaining agreements. The Board explained that the critical period for teacher contract negotiations was approaching and procedures must be in effect in order that school districts and unions would not unnecessarily reach impasses over the question of "fair share." However, the Board had delayed general rulemaking because it believed that an Illinois Supreme Court case and two district court cases would probably affect the fair share objection rules. The emergency rulemaking was also necessary because the Board had received a large number of fair share fees, and failure to promulgate rules could have paralyzed the Board's process. The Board explained that general rulemaking has been proposed on this issue and stated that they were studying recent court orders, awaiting other court decisions, and considering comments received on the emergency rule as they prepared the second notice on the more recently proposed rulemaking. The Board stated that efforts to inform the public about the emergency rulemaking included mailing copies to affected parties and announcing the proposed general rulemaking in a press release. The

Joint Committee objected to this emergency rulemaking at the November 14, 1985 meeting. The Joint Committee stated that the Board could have adopted a general rulemaking on this subject as early as July 26, 1985, thus avoiding a need for the use of the emergency rulemaking procedure. Therefore, the Joint Committee objected to the rulemaking because any emergency situation that may have existed was created solely by the failure of the Board to act in a timely fashion.

Illinois Experimental Organ Transplantation Procedures Board

In June, 1985, the Board adopted an emergency rule entitled "Experimental Organ Transplantation Program" (77 Ill. Adm. Code 2100). This rulemaking created procedures and requirements for the submission and consideration of applications from teaching hospitals or affiliated medical centers which nominate Illinois residents for funding to cover the expenses of an experimental organ transplantation procedure. The Board stated that the emergency rulemaking was necessary because the Governor's Office did not appoint the Board until March, 1985, which did not leave enough time to propose rules pursuant to general rulemaking provisions of the Act, and have them adopted by June 30, 1985. The Board explained that applications were being submitted to the Board, and considering the nature of the procedures that were involved, delays in the Board's ability to provide recommendations could have serious consequences for many of the potential organ recipients. The Board distinguished the situation from that of an agency created emergency (as discussed in Senn Park Nursing Center v. Miller) by stating that the circumstances which led to the emergency were beyond the control of the Board. The Board explained that an effort was made to inform the affected public by sending copies of the rules to all medical teaching facilities and to physicians of individuals who had requested information from the Board. In addition, certain medical associations had published information on the program at the request of the Board. The Joint Committee found no problems with this emergency rulemaking.

TABLE 5
EMERGENCY RULEMAKING BY AGENCY 1985

Agriculture, Department of	2
Alcoholism and Substance Abuse, Department of	1
Attorney General	1
Capital Development Board	1
Central Management Services, Department of	6
Commerce and Community Affairs, Department of	6
Commerce Commission, Illinois	1
Conservation, Department of	7
Criminal Justice Information Authority, Illinois	1
Education, State Board of	9
Environmental Protection Agency	2
Experimental Organ Transplantation Procedures Board, Illinois	1
Farm Development Authority, Illinois	2
Financial Institutions, Department of	1
Housing Development Authority, Illinois	1
Industrial Commission	2
Insurance, Department of	2
Labor, Department of	2
Labor Relations Board, Illinois Educational	1
Nuclear Safety, Department	1
Pollution Control Board	3
Public Aid, Department of	6
Public Health, Department of	2
Racing Board, Illinois	2
Registration and Education, Department of	1
Retirement System of Illinois, State Employees'	1
Savings and Loan Associations, Commissioner of	1
Secretary of State	6
State Mandates Board of Appeals	1
Transportation, Department of	1
Treasurer	1
<hr/>	
TOTAL	73

017:ar85

TABLE 6

STATEMENTS OF OBJECTION AND RECOMMENDATION ISSUED IN 1965 TO EMERGENCY RULEMAKING

Agency	Number of Objections	Response to Objections			Pending	Number of Recommendations	Response to Recommendations		
		Modify	Refuse	Failure to Respond			Agree	Disagree	Failure to Respond
Capital Development Board	1				1				
Central Management Services, Department of	1				1				
Community College Board, Illinois	1				1				
Conservation, Department of	1				2				
Education, State Board of	2				1				1
Elections, State Board of	2				2				
Environmental Protection Agency	1				1				
Farm Development Authority, Illinois	1				1				
Financial Institutions, Department of	2				2				
Fire Marshal, Office of State	1				1				
Labor, Department of						2	2		
Labor Relations Board, Illinois Educational	1				1				
Public Aid, Department of	2	1	1			1	1		
Secretary of State	5		4	1					
Treasurer	1		1						
TOTAL	21	1	6	7	7	5	4		1

TABLE 7
OBJECTIONS TO EMERGENCY RULEMAKING BY TYPE

Type of Objection	Number of Objections	Response to Objection			Pending
		Modify	Refuse	Failure to Respond	
Agency Created Emergency	5	-	3 (60%)	1 (20%)	1 (20%)
Rule Not Limited To Emergency	5	-	2 (40%)	2 (40%)	1 (20%)
No Emergency Existed	4	-	1 (25%)	1 (25%)	2 (50%)
Lack of Statutory Authority	3	-	-	2 (66.7%)	1 (33.3%)
Conflict with Statute	2	-	-	1 (50%)	1 (50%)
No Threat to the Public	2	1 (50%)	-	-	1 (50%)
	-	-	-	-	-
TOTAL	21	1 (4.8%)	6 (28.6%)	7 (33.3%)	7 (33.3%)

014:ar85

REVIEW OF PEREMPTORY RULEMAKING

Section 5.03 of the Illinois Administrative Procedure Act authorizes the use of the peremptory rulemaking process. This procedure, and the emergency rulemaking provisions discussed in the preceding section, are the two provisions that permit agencies to bypass general rulemaking procedures. Because peremptory rulemaking precludes any participation by the public and becomes effective immediately upon filing with the Secretary of State, the use of this procedure is permitted only under the most narrow of circumstances. The criteria for this review are contained in the Joint Committee's rules entitled "Review of Peremptory Rulemaking" (1 Ill. Adm. Code 240). In brief, peremptory rulemaking may be utilized only when required by federal law, federal rules and regulations, or a court order. Furthermore, the content of the rule must be limited to what is required by the law, rule, or order, the agency may have no discretion as to the rule's contents, and the rulemaking must be accomplished within 30 days after the change is required.

Peremptory Rulemaking Activity During 1985

Five State agencies adopted 23 peremptory rulemakings in 1985. (see TABLE 8, page 37). The Joint Committee issued two objections to one of these peremptory rulemakings, the Department of Employment Security's "Supplemental Federal Benefits." (see TABLE 9, page 38). This rulemaking is discussed in the following section.

In 19 of the peremptory rulemakings, agencies justified the use of peremptory rulemaking using federal and state laws which included "equal to" language requiring that the State adopt all federal changes. For example, the Department of Agriculture is required by both the Federal Poultry Inspection Act and Illinois' Meat and Poultry Inspection Act to maintain an "equal to" status with federal regulations. Consequently, in 1985 the Department amended state meat and poultry regulations using the peremptory rulemaking (8 Ill. Adm. Code 125) process eight times to incorporate references to federal regulatory changes in such areas as voluntary post-mortem turkey inspection, testing carcasses that show lesions, the use of lecithin as an emulsifier in meat products, and the use of brand identification symbols.

The Department of Conservation adopted two peremptory rulemakings in 1985 entitled "Duck, Goose and Coot Hunting Regulations" (17 Ill. Adm. Code 590) and "Woodcock, Snipe, Rail and Teal Hunting Regulations" (17 Ill. Adm. Code 740). The peremptory amendments required the use of steel shot when hunting migratory waterfowl in certain parts of Illinois. The Department adopted these two amendments in September and October in response to a case brought in federal court by the Wildlife Federation in which the conservation organization demonstrated that lead shot had caused the death of bald eagles feeding upon birds killed with lead shot. The Joint Committee did not issue any objections regarding these rulemakings.

The Department of Employment Security amended its Supplemental Federal Benefits rules (56 Ill. Adm. Code 1875) using peremptory rulemaking. This amendment altered benefits for some Illinois recipients of supplemental compensation and was based upon a series of letters from the United States Department of Labor to the Department. In August, the Joint Committee issued two objections to this rulemaking. The Joint Committee found that the Department had failed to comply with the 30 day filing requirement specified in Section 5.03 of the Illinois Administrative Procedure Act because the change in federal law that prompted the rulemaking had occurred more than eighteen months earlier. Furthermore, the Joint Committee found that the Department had discretion as to the contents of the rule as demonstrated by the fact that they had the option to word the rule as they chose or to refer or not refer to the federal law. In addition, the Joint Committee found that the Department's interpretation of federal law was too broad and would allow federal administrative officials to trigger peremptory rulemaking by merely sending letters. The Committee found that if the Department felt constrained to act because of deadlines imposed by the U.S. Department of Labor's letter, the Department should have used the emergency rulemaking procedures found at Section 5.02 of the Act. The Department refused to amend or repeal the rule in response to the objection.

TABLE 8
PEREMPTORY RULEMAKING BY AGENCY 1985

Agriculture, Department of	9
Conservation, Department of	2
Employment Security, Department of	1
Pollution Control Board	9
Public Aid, Department of	2
	<hr/>
TOTAL	23

017:ar85

STATEMENTS OF OBJECTION AND RECOMMENDATION ISSUED IN 1985 TO PEREMPTORY RULES

Agency	Number of Objections	Response to Objections			Number of Recommendations	Response to Recommendations		
		Modify	Refuse	Failure to Respond		Agree	Disagree	Failure to Respond
Employment Security, Department of	2							

- 38 -

FIVE YEAR REVIEW

Section 7.08 of the Illinois Administrative Procedure Act requires the Joint Committee to review the existing rules of all State agencies at least once every five years. The Act requires that this review be conducted by systematically grouping all rules into subject areas. This procedure ensures that rules which are similar in nature are reviewed at the same time. For this reason, a five year review report normally contains rules from several agencies, with each set of rules relating to the same topic, such as consumer protection, vocational and professional education, or records and information management. The review focuses upon several issues, including organizational and procedural reforms; the modification or abolition of rules; the elimination of obsolete, overlapping or conflicting rules and language; and the economic and budgetary effects of the rules.

The five year review process is conducted in several different stages. Initially, specific information is requested from the agencies which have rules which are scheduled to be included in the review. The request usually concerns the statutory authority upon which the rule is based, the cost to implement the rule, and the current need for the rules. At least one public hearing to gather information and views from interested persons will also be scheduled when such hearings are necessary for a complete review of the rules. During this stage, the agency and the Joint Committee often reach tentative agreements to correct problems which have been discovered in the rules.

Stage two of the review process is the preliminary written report which is presented to the Joint Committee and agency representatives for their consideration. The report includes suggestions and recommendations for Joint Committee action. At this stage, the agency representatives are requested to respond in writing to the suggestions and recommendations for action. These written responses are included in the final report which is presented to the Joint Committee for formal action at a hearing as part of stage three. At the hearing, agency representatives present their position on the proposed recommendations, and the Joint Committee votes to either accept or reject the recommendations.

Finally, stage four is the "follow-up" stage of the review. The Joint Committee monitors and reports on agency action and prepares any necessary reports. This procedure ensures that the Joint Committee recommendations are being followed.

In 1985, the Joint Committee began to revise the five year review program within the statutory constraints of the program. As revised, the review program will operate as a discrete entity which will not overlap, but will complement the proposed rulemaking review program. This revision will ensure that the five year review program is completed in a timely manner and that concentration is given to the interrelationship between rulemakings. This revision has only become appropriate at this time because the great majority of State agency rules have been reviewed in the proposed rulemaking process.

The Joint Committee issued one five year report in 1985. The Records and Information Management Report consisted of sixteen sets of rules from the following agencies: Department of Central Management Services (1), Department of Children and Family Services (3), Department of Conservation (1), Criminal Justice Information Authority (2), Environmental Protection Agency (1), Department of Law Enforcement (2), Legislative Information System (1), Local Records Commission (1), Department of Public Health (1), Secretary of State (2) and the State Board of Education (1). During the course of the review, 297 substantive issues were raised concerning these rules. Of the substantive issues raised, 156, or 53% resulted in tentative agreements being reached at the staff level. This figure is somewhat lower than that of previous five-year review reports. Ordinarily, between 65 and 70 percent of all issues raised result in tentative agreements at the staff level to amend the rules. The lower number of tentative agreements reached in this review can be explained, in part, by the fact that the rules under review in this report have been updated by the agencies more frequently than was the case with the rules reviewed in previous reports. The answers to 131, or 44% of the questions asked, were deemed to be adequate, and no agreements for change or recommendations for formal Joint Committee action were made. Of the substantive issues raised in the review, 14, or 4.78% of the total, resulted in Joint Committee action. The Joint Committee voted eight

recommendations for objections to existing rules, three recommendations for rulemaking by the affected agencies, one recommendation for corrective legislation, and two recommendations for administrative study by the various agencies at the January, 1985 meeting. (see TABLE 10, page 45).

During the course of the review, a number of problems were encountered which became significant either because of the importance of the problem as it relates to the effect of the improper rule, or because of the frequency with which the issue was encountered. The following paragraphs discuss some of the important issues and problems discovered during this review.

The Illinois Freedom of Information Act

The Illinois Freedom of Information Act became effective on July 1, 1984. This legislation has had a profound effect upon the rules of all State agencies which deal with public records and information.

The Act requires that each "public body" within Illinois make its "public records" available to any person, upon request, for inspection and copying. The term "public body," as defined by the Act, includes all legislative, executive, administrative, and advisory bodies of the State. Also included within this definition are the State universities and colleges and generally all units of local government. The Act provides an inclusive definition of public records to allow liberal access to information in the possession of the various public bodies throughout the State by members of the public, with certain specific exceptions.

Section 4(a) of the Freedom of Information Act requires that each public body prominently display at each administrative or regional office, and make available for copying, a brief description of the public body, including a short summary of its purpose, a diagram with functional subdivisions, the agency's operating budget, the number and location of its separate offices, the approximate number of employees, and the identification and membership of any advisory boards and commissions associated with the public body. Section 4(b) of the Act requires that each public body also make available a brief description of the manner in which the public may request information and public records.

In an attempt to provide consistency between the public information rules of each State agency, the Governor's Office drafted a model set of rules which incorporate the requirements of the Freedom of Information Act. The model rules provide a general framework for rules which can be tailored by each agency to meet its own unique requirements. As part of the five year review, the Joint Committee recommended that all agencies subject to the Illinois Administrative Procedure Act adopt the model rules developed by the Office of the Governor to implement the Illinois Freedom of Information Act. These rules were to be adopted pursuant to the internal rulemaking procedure of the Illinois Administrative Procedure Act, which provides that such rules shall become effective upon filing. At the time the Joint Committee issued this report, 40 agencies had filed with the Administrative Code Unit of the Office of the Secretary of State rules to implement the Freedom of Information Act.

In addition to promulgating rules regarding the availability of public records pursuant to the internal rulemaking procedure of the Illinois Administrative Procedure Act, there are provisions of the Freedom of Information Act which State agencies may be required to implement through the general rulemaking provisions of the Act. Therefore, the Joint Committee recommended that all State agencies subject to the Illinois Administrative Procedure Act undertake rulemaking to fully implement the requirements of the Freedom of Information Act which are not covered by the model rules adopted through the internal rulemaking process.

Simplicity and Clarity

Simplicity and clarity tend to be two of the more serious obstacles to public understanding of agency rules, and two of the most frequently recurring problems targeted by the Joint Committee's review criteria.

In this report, 47% of all agreed changes in the rules reviewed involved agreements to modify existing rules to provide greater simplicity and clarity. The agencies agreed to rephrase many rules or provisions that contained unnecessarily complicated or vague language. In the report, the Joint Committee expressed the hope that with increased public and governmental awareness of rules, all State agencies would attempt to write rules in a

simple, clear, and precise manner. The continuing review of all rules by the Joint Committee should aid significantly in simplifying unnecessarily complex rules and regulations.

Accuracy and Currency

It is not uncommon, as the Joint Committee's review process moves forward, for agencies to conclude that portions of rules, or even entire sets of rules, are unnecessary. That was the case with several sets of rules reviewed in this report.

In the case of the Local Records Commission's "Specifications for Safety Photographic Film," the Commission concluded that the rules and regulations were outdated and unenforced. The Commission therefore, repealed the entire set of rules.

In the case of the Secretary of State's rules pertaining to a resolution adopted by the State Records Commission relating to the maximum standards for quality for permanent record photographic microcopying film, the Secretary concluded that the rules were outdated and unenforced. The Secretary therefore, repealed this set of rules.

The repeal of obsolete rules fulfills a portion of the Joint Committee's "Sunset" function of reducing the number and bulk of rules. The five year review process has uncovered numerous instances where rules remained on file long after their usefulness, and in some cases, statutory authority, had expired. While the primary responsibility for keeping the rules accurate and current remains with the agencies who promulgated the rules, the fact that agencies do not always meet this responsibility illustrates the need for continuing review of rules by the Joint Committee, so that a continuous impetus is provided.

Lack of Validly Promulgated Rules

It was discovered during the course of the review that the Cook County Local Records Commission had not promulgated rules governing its procedure pursuant to the Illinois Administrative Procedure Act as required by the Local Records Act. Section 7 of the Local Records Act provides that the Local

Records Commission for Cook County and the counties co-terminous to Cook County, and the Local Records Commission for all the remaining counties of the State of Illinois are to promulgate rules. The Downstate Local Records Commission had promulgated rules as required by the Local Records Act.

As part of this report, the Joint Committee informed the Local Records Commission of Cook County that it was required to promulgate rules pursuant to the Illinois Administrative Procedure Act. The Committee also directed its staff to work with the Local Records Commission of Cook County in the development of such rules. As of the end of 1985, the Commission had not promulgated rules.

002:ar85

TABLE 10

STATEMENTS OF OBJECTION AND RECOMMENDATION ISSUED IN 1985 TO RULES
AS A RESULT OF FIVE YEAR REVIEW

Agency	Number of Objections	Response to Objections			Number of Recommendations	Response to Recommendations		
		Modify	Refuse	Failure to Respond		Agree	Disagree	Failure to Respond
All State Agencies					2			
Central Management Services, Department of					1		1	
Children and Family Services, Department of	2	2						
Conservation, Department of	1		1		1		1	
Criminal Justice Information Authority, Illinois/State Police, Department of (formerly the Department of Law Enforcement)					1	1		
Local Records Commission of Cook County					1			1
Secretary of State	5	5						
TOTAL	8	7	1		6	1	2	1

COMPLAINT REVIEW PROGRAM AND REVIEW OF EXISTING RULES

Sections 7.04 and 7.07 of the Illinois Administrative Procedure Act grant the Joint Committee the authority to review agency rules and policies. Section 7.04 allows the Joint Committee to "undertake studies and investigations concerning rulemaking and agency rules" and requires that the Committee "monitor and investigate" agency compliance with the provisions of the Illinois Administrative Procedure Act, "make periodic investigations of the rulemaking activities of all State agencies, and evaluate and report on all rules in terms of their propriety, legal adequacy, relation to statutory authorization, economic and budgetary effects and public policy."

Section 7.07 of the Act authorizes the Joint Committee to issue objections to existing rules and assigns to the Committee the task of examining "any rule for the purpose of determining whether the rule is within the statutory authority upon which it is based, and whether the rule is in proper form."

Part 260 of the Joint Committee's Operational Rules (1 Ill. Adm. Code 260) outlines the complaint review procedure. Upon receipt of a complaint, an initial review is conducted to determine the need for a full complaint investigation. Most of the inquiries received by the Joint Committee require basic information, such as copies of rules, explanations of the rulemaking process, or referrals to appropriate agencies. These inquiries are easily answered without a full investigation. Others, however, require more extensive research and study prior to formal Joint Committee action.

Four formal reviews were commenced in 1985. Reviews are still in progress for three of these complaints. In addition, the Joint Committee is monitoring the progress of rulemaking by two state agencies regarding complaints which resulted in Joint Committee recommendations in 1984.

1985 Complaints

In June 1985, the Joint Committee received a complaint concerning the Illinois Environmental Protection Agency's use of draft rules entitled "Procedures to be Followed in the Performance of Annual Inspection of Motor Vehicles Emissions." The complaint alleged that the agency was using rules that had

not been formally promulgated pursuant to the Illinois Administrative Procedure Act as part of the competitive bidding procedures for automobile vehicle emission inspection stations.

The Joint Committee received copies of the information which was sent by the Agency to potential bidders. This information included a description of the inspection program and a copy of the agency's rules. The Agency stated that the rules were provided for the bidders to use as guidelines for technical qualifications. However, throughout the information on the program requirements provided by the Agency to the bidders, the Agency referred to the rules and the technical requirements contained therein as being mandatory requirements.

Section 4(c) of the Illinois Administrative Procedure Act prohibits the enforcement of any rule not adopted pursuant to the procedures set forth in the Illinois Administrative Procedure Act. The Joint Committee, at its September 19, 1985 meeting, objected to the Environmental Protection Agency's use of its draft rules because the Agency asked bidders to base their technical proposals on the specifications and requirements set forth in rules which were not promulgated pursuant to the Act. The Joint Committee also recommended that the Agency promulgate rules pursuant to the Act. As of the end of 1985, no such rules were proposed.

Another complaint received by the Joint Committee in 1985 concerned the Department of Rehabilitation Services' policies regarding the Illinois Visually Handicapped Institute, a residential training center for blind adults which is operated and administered by the Department. The complaint concerned whether the Department of Rehabilitation Services' policies regarding the Institute were promulgated as rules pursuant to the Illinois Administrative Procedure Act.

When the issue was discussed, the Department stated that it was developing proposed rulemaking with input from the Institute Advisory Council, which consists of former Institute students and other representatives of the blind community, to implement its policies regarding the Institute. The Department further indicated that the policies from which the proposed rulemaking was

being developed were in place at the Institute before it became a part of the Department of Rehabilitation Services, and that students were informed of these policies prior to enrollment at the Institute. The Department formally proposed rulemaking to implement these policies in the May 10, 1985 issue of the Illinois Register. The second notice was received in December, at which time the Joint Committee commenced its formal review of the proposed rulemaking. This rulemaking was not adopted by the end of 1985.

In August 1985, the Joint Committee received an inquiry concerning the Job Training Partnership Act Dislocated Workers Program (JTPA Title III), which is administered by the Department of Commerce and Community Affairs. JTPA Title III provides for the retraining of dislocated workers who have no reasonable prospect of returning to their old employment due to plant closings or other technological changes in the economy. Central to the requirements for program eligibility is the fact that an individual's separation from his or her prior employment must be involuntary, i.e., termination or layoff.

According to a JTPA Technical Assistance/Information Letter which the Joint Committee received, it appeared as though honorably discharged veterans were not eligible for the JTPA program due to the fact that they did not re-enlist for another tour of duty, thereby voluntarily terminating their employment.

During a discussion concerning the eligibility of honorably discharged veterans for the program, the Department indicated that the issue was not specifically addressed in the rules and that the eligibility criteria for the program which pertain to all applicants were contained in Section 2620.90 of the Department's rules. The Department further stated that veterans are not eligible for Title III simply by virtue of being veterans, however the occupations held while serving in the armed forces are a valid part of the applicant's work history, and may be used in establishing the prerequisites needed for participation in the JTPA Title III program. The Department's rules clearly state the intent and requirements necessary for applying of the JTPA Title III program. After discussion, the Department agreed to amend the Technical Assistance/Information Letter to more adequately reflect its policy regarding JTPA applicants who served in the military. The amended

Technical Assistance/Information Letter was distributed by the Department in December 1985.

In late 1985, the Joint Committee received an inquiry regarding the Department of Employment Security's policies concerning telephone hearings. Section 2720.215 of the Department's rules (56 Ill. Adm. Code 2720.215) gives claims adjudicators discretion to determine whether hearings on unemployment claims will be conducted by telephone or in person. However, the Department's rule contains no standards as to when such discretion may be exercised, as required pursuant to Section 4.02 of the Illinois Administrative Procedure Act. Furthermore, it is questionable as to whether the Department has the statutory authority to allow telephone, rather than in-person hearings. The issue will be considered by the Joint Committee in early 1986.

TABLE 11 (page 52) illustrates the number of objections and recommendations issued by the Joint Committee in 1985 to existing rules. The table includes complaint reviews and objections and recommendations issued to rules which were adopted prior to the completion of the review. The specific objections and recommendations are summarized in Section Two.

1984 Complaints

The Joint Committee is monitoring the progress of the Department of Transportation, Division of Water Resources, in its promulgation of "Rules for Construction in Rivers, Lakes, and Streams." In 1984, after a complaint review revealed that the rules had not been formally promulgated pursuant to the Act, but had been enforced by the Department for a number of years, the Joint Committee recommended that the Department adopt these rules pursuant to the Illinois Administrative Procedure Act. The Department proposed rules in December 1984. However, due to the extent and nature of the comments received by the Department during public hearings pertaining to the rules, the Department ceased the promulgation effort. The Department further indicated that it would re-promulgate rules on this subject in the summer of 1985. As of the end of 1985, the Department had not re-promulgated the rules.

The Joint Committee also issued 14 recommendations for rulemaking regarding the Department of Rehabilitation Services' policies for Social Security disability determinations in 1984. Of primary concern to the Joint Committee was whether, in making disability determinations, the Department was implementing policies of its own and those of the United States Social Security Administration which had not been promulgated pursuant to the procedures of the Illinois Administrative Procedure Act.

As a result of the Joint Committee's actions, the Department agreed to promulgate rulemaking pursuant to the Illinois Administrative Procedure Act to meet the recommendations. The Department agreed to propose the rulemaking in stages, the latest proposal to be completed by October, 1985. However, the Department informed the Joint Committee on several occasions that the timetable could not be met due to the Department's review of policies which were to be contained in the rules, and the fact that the Federal government had not yet formally promulgated its policy. The matter will be discussed again with the Department in early 1986.

003/ar85

TABLE 11

STATEMENTS OF OBJECTION AND RECOMMENDATION ISSUED IN 1985 TO EXISTING RULES

Agency	Number of Objections	Response to Objections			Pending	Number of Recommendations	Response to Recommendations		
		Modify	Refuse	Failure to Respond			Agree	Disagree	Pending
Commerce Commission, Illinois	4	2	2			1			1
Community College Board, Illinois	1			1					
Environmental Protection Agency	1			1		2			2
Labor Relations Board, Illinois Educational	2		1	1					
Labor Relations Board, Illinois Local (1)	16		16			2			2
Labor Relations Board, Illinois State (1)	16		16			2			2
Mental Health and Developmental Disabilities, Department of						1			1
TOTAL	24	2	19	3		6			2

1 (1) Sixteen objections were issued to four joint rules of the Illinois Local Labor Relations Board and the Illinois State Labor Relations Board.

PUBLIC ACT REVIEW

Section 7.05(3) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.05) provides that the Joint Committee will maintain a review program to study the impact of legislative changes on agency rules and rulemaking. The Joint Committee fulfills this statutory obligation through its public act review program. Under this program, the Committee reviews each public act filed during the year and determines whether the legislation requires agency rulemaking. Upon making this determination, the Committee notifies each agency that will be required to promulgate rulemaking and requests information regarding the status of such rulemaking. The Committee then monitors the agency's progress in fulfilling the rulemaking requirement.

A primary goal of the Joint Committee in this program is to ensure that the rulemaking is implemented in an expeditious manner as required by Section 8 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1008).

The Joint Committee reviewed 49 public acts which were passed by the 83rd General Assembly (TABLE 12, page 55), and 1004 public acts which were passed during 1985 by the 84th General Assembly (TABLE 13, pages 56 - 68). Among these, letters stating that rulemaking may be required by 518 of the acts were sent by the Joint Committee to 65 State agencies. The following table summarizes the Committee's findings. The tables list each public act which may require new or amendatory rulemaking, the agency or agencies involved, and the agency's response to the Joint Committee's request regarding the status of such rulemaking.

TABLE 12
83rd GENERAL ASSEMBLY
PUBLIC ACTS WHICH MAY REQUIRE RULEMAKING

Public Act	Agency	Subject	Response
83-1496	Agriculture	Civ. Adm. Code/DPH	Agree
83-1517	Children and Family Services	Juv. Court Custody	Agree
83-1523	Comm. & Community Affairs	Industrial Finance	Disagree
83-1505	Comm. of Banks & Trusts	Bank Officer Loans	Disagree
83-1496	Comm. Savings & Loans	Civ. Adm. Code/DPH	Failure to Respond
83-1532	Commerce Commission	Public Utilities	Failure to Respond
83-1535	Commerce Commission	Public Utility Boards	Failure to Respond
83-1540	Commerce Commission	Public Utilities	Failure to Respond
83-1492	Conservation	Urban Forestry	Agree
83-1496	Criminal Justice Info. Auth.	Civ. Adm. Code/DPH	Agree
83-1504	Employment Security	Unemployment Ins.	Disagree
83-1494	Environmental Protection Agency	EPA Permit	Agree
83-1522	Environmental Protection Agency	EPA/DENR Haz. Waste	Disagree
83-1523	Export Development Auth.	Industrial Finance Authority	Failure to Respond
83-1496	Financial Institutions	Civ. Adm. Code/DPH	Disagree
83-1499	Prisoner Review Board	Victims Violent Crime	Agree
83-1496	Public Aid	Civ. Adm. Code/DPH	Agree
83-1497	Public Aid	Public Aid Eligibility	Disagree
83-1501	Public Aid	Public Aid Rates	Agree
83-1509	Public Aid	Public Aid Payments	Disagree
83-1530	Public Aid	Nursing Homes	Agree
83-1530	Public Aid	Nursing Homes	Agree
83-1496	Public Health	Civ. Adm. Code/DPH	Agree
83-1530	Public Health	Nursing Homes	Failure to Respond
83-1530	Public Health	Nursing Homes	Agree
83-1508	Registration and Education	Optometry	Agree
83-1513	Registration and Education	Roofing License	Agree
83-1534	Rehabilitation Services	DORS-Blind Vendors	Agree
83-1495	Revenue	Tax-Precious Metals	Agree
83-1511	Revenue	Bingo License Tax	Disagree
83-1516	Revenue	Income Tax Code	Disagree
83-1531	Revenue	Prescription Drug Asst.	Agree

TABLE 13
84th GENERAL ASSEMBLY
PUBLIC ACTS WHICH MAY REQUIRE RULEMAKING

Public Act	Agency	Subject	Response
84-183	Aging	Alzheimer Victim	Failure to Respond
84-356	Aging	Aging	Failure to Respond
84-357	Aging	Aging	Failure to Respond
84-380	Aging	Aging Alzheimer	Failure to Respond
84-511	Aging	Alzheimer Respite Prog.	Failure to Respond
84-919	Aging	Aging Health Counsel	Failure to Respond
84-025	Agriculture	Various Acts	Agree
84-028	Agriculture	Dangerous Animals	Disagree
84-130	Agriculture	State Fair	Agree
84-153	Agriculture	Pesticide Control	Agree
84-156	Agriculture	Grain Dealers License	Agree
84-182	Agriculture	Bees/Apiaries	Disagree
84-184	Agriculture	Egg Products	Disagree
84-200	Agriculture	Bovine Vaccination	Agree
84-211	Agriculture	Meat Handling	Disagree
84-221	Agriculture	Professional Licensing	Failure to Respond
84-294	Agriculture	Livestock Dealers License	Disagree
84-295	Agriculture	Agriculture	Disagree
84-302	Agriculture	Swine Dealer Permits	Agree
84-315	Agriculture	Trichinosis Control	Disagree
84-334	Agriculture	Soybean Marketing	Disagree
84-466	Agriculture	Animals Cruel Treatment	Disagree
84-723	Agriculture	Humane Care Animals	Disagree
84-830	Agriculture	Milk Promotion	Disagree
84-891	Agriculture	Food/Drug Permits	Disagree
84-272	Alcoholism & Substance Abuse	DUI	Agree
84-718	Alcoholism & Substance Abuse	Alcohol/Drug Abuse	Agree
84-874	Alcoholism & Substance Abuse	Controlled Substances	Agree
84-187	Attorney General	Victim/Witness Notices	Failure to Respond
84-764	Beef Council	Consumer Fraud	Failure to Respond
84-343	BI State Development Auth.	Beef Development	Disagree
84-217	Board of Higher Education	World Trade Center	Disagree
84-109		Build Illinois Act	Agree

Public Act	Agency	Subject	Response
84-338	Board of Higher Education	Senior Citizen Tuition	Disagree
84-509	Board of Higher Education	Comm. College Annexation	Disagree
84-726	Board of Higher Education	Higher Education	Disagree
84-801	Board of Higher Education	Higher Education	Agree
84-109	Capital Development Board	Build Illinois Act	Failure to Respond
84-948	Capital Development Board	Environmental Barriers	Failure to Respond
84-533	Carnival Amuse. Ride Safety Bd.	Amusement Ride Act	Failure to Respond
84-030	Central Management Services	Personnel Code	Disagree
84-109	Central Management Services	Build Illinois Act	Disagree
84-115	Central Management Services	Personnel Positions	Disagree
84-159	Central Management Services	Labor Benefits	Disagree
84-167	Central Management Services	State Employee Benefits	Agree
84-243	Central Management Services	Personnel Rules	Agree
84-263	Central Management Services	DCFS Office Space	Agree
84-345	Central Management Services	State Travel Expense	Agree
84-346	Central Management Services	State Travel Expense	Agree
84-349	Central Management Services	State Property	Failure to Respond
84-389	Central Management Services	State Property	Agree
84-428	Central Management Services	State Finance	Agree
84-435	Central Management Services	Quick Claim Deeds	Disagree
84-652	Central Management Services	State Child Care	Agree
84-831	Central Management Services	Purchasing Bid	Agree
84-876	Central Management Services	Personnel Code	Agree
84-907	Central Management Services	Collective Bargaining	Disagree
84-943	Central Management Services	CMS Employee Sugg.	Disagree
84-961	Central Management Services	DCMS Telecommunications	Agree
84-158	Children & Family Services	Day Care Employees	Agree
84-168	Children & Family Services	DCFS Scholarships	Disagree
84-172	Children & Family Services	Child Abuse	Agree
84-296	Children & Family Services	Child Abuse	Disagree
84-305	Children & Family Services	Child Abuse	Disagree
84-328	Children & Family Services	Adoption Agencies	Agree
84-494	Children & Family Services	Probate - Estate	Agree
84-564	Children & Family Services	Child Abuse	Disagree
84-611	Children & Family Services	Abused Child Reporting	Agree
84-637	Children & Family Services	Child Care	Agree
84-648	Children & Family Services	DCFS - Foster Home	Agree

Public Act	Agency	Subject	Response
84-884	Children & Family Services	DCFS - Community Funding	Agree
84-936	Children & Family Services	Safety Equipment	Agree
84-109	Commerce & Comm. Affairs	Build Illinois Act	Agree
84-141	Commerce & Comm. Affairs	Clean & Beautiful	Agree
84-165	Commerce & Comm. Affairs	Enterprise Zone	Agree
84-166	Commerce & Comm. Affairs	Public Utilities	Agree
84-245	Commerce & Comm. Affairs	Civic Center	Agree
84-355	Commerce & Comm. Affairs	DCCA/Labor - Management	Agree
84-769	Commerce & Comm. Affairs	Foreign Trade Zones	Agree
84-792	Commerce & Comm. Affairs	Employment Development Act	Agree
84-817	Commerce & Comm. Affairs	Enterprise Zone	Agree
84-882	Commerce & Comm. Affairs	Attract Industry	Disagree
84-890	Commerce & Comm. Affairs	DCCA	Disagree
84-993	Commerce & Comm. Affairs	DCCA/IDOT	Disagree
84-997	Commerce & Comm. Affairs	Enterprise Zone	Agree
84-307	Commerce Commission	Public Utilities	Failure to Respond
84-538	Commerce Commission	Public Utilities	Failure to Respond
84-617	Commerce Commission	Public Utilities	Failure to Respond
84-686	Commerce Commission	Small Business	Failure to Respond
84-846	Commerce Commission	Vehicle Towing	Failure to Respond
84-893	Commerce Commission	Public Utilities	Failure to Respond
84-476	Commissioner of Banks & Trusts	Electronic Fund Transfer	Disagree
84-519	Commissioner of Banks & Trusts	Trust Company	Disagree
84-543	Commissioner of Banks & Trusts	Savings & Loan Comm.	Disagree
84-905	Commissioner of Banks & Trusts	Banks & Trusts	Agree
84-1004	Commissioner of Banks & Trusts	Financial Institutions	Agree
84-203	Commissioner of Savings & Loans	Financial Institutions	Disagree
84-543	Commissioner of Savings & Loans	Savings & Loan Comm.	Agree
84-109	Community College Board	Build Illinois Act	Agree
84-338	Community College Board	Senior Citizen Tuition	Disagree
84-509	Community College Board	Community College	Agree
84-026	Comptroller	Unemployment Insurance	Failure to Respond
84-239	Comptroller	Cemetery Sales	Agree
84-259	Comptroller	Comptroller	Agree
84-645	Comptroller	Burial Funds	Disagree
84-825	Comptroller	Public Aid	Agree

Public Act	Agency	Subject	Response
84-025	Conservation	Various Acts	Disagree
84-109	Conservation	Build Illinois Act	Agree
84-138	Conservation	DOC - Timber Value	Agree
84-140	Conservation	Caves	Agree
84-150	Conservation	Wildlife Code	Agree
84-151	Conservation	Fish Code	Agree
84-423	Conservation	Historic Rehabilitation	Disagree
84-515	Conservation	Watercraft Offenses	Disagree
84-646	Conservation	Boat Registration	Disagree
84-973	Conservation	Boat Registration	Agree
84-984	Conservation	Conservation Fees	Disagree
84-012	Corrections	Juvenile Court	Disagree
84-187	Corrections	Victims/Witness Notices	Disagree
84-240	Corrections	Dept. Corrections	Disagree
84-669	Corrections	Correction Employees	Disagree
84-109	Development Finance Auth.	Build Illinois Act	Failure to Respond
84-336	Development Finance Auth.	Land Bank Fund	Failure to Respond
84-823	Div. Probation Services Ill. Cts.	Probation Services	Disagree
84-619	East St. Louis Dev. Auth.	East St. Louis Development	Failure to Respond
84-995	Educational Facilities Auth.	Education Facilities	Undecided
84-123	Educational Labor Relations Bd.	Unfair Labor Practice	Disagree
84-727	Emer. Services & Disaster Ag.	Earthquake Awareness	Agree
84-026	Employment Security	Unemployment Insurance	Disagree
84-109	Energy & Natural Resources	Build Illinois Act	Failure to Respond
84-199	Energy & Natural Resources	Radiation - Nurses	Failure to Respond
84-741	Energy & Natural Resources	DCCA - Burn Coal	Failure to Respond
84-752	Energy & Natural Resources	DENR/Recycling Grants	Failure to Respond
84-788	Energy & Natural Resources	Solar Energy	Failure to Respond
84-841	Energy & Natural Resources	Solar Energy	Failure to Respond
84-109	Environmental Protection Agency	Build Illinois Act	Failure to Respond
84-639	Environmental Protection Agency	Air Pollution	Failure to Respond
84-666	Environmental Protection Agency	EPA - Development Permit	Failure to Respond
84-852	Environmental Protection Agency	Chemical Safety	Failure to Respond
84-957	Environmental Protection Agency	Waste Incinerators	Failure to Respond
84-001	Farm Development Authority	Emergency Farm Credit	Failure to Respond
84-109	Farm Development Authority	Build Illinois Act	Failure to Respond
84-154	Farm Development Authority	Farm Development Bonds	Failure to Respond

Public Act	Agency	Subject	Response
84-488	Finance Authority	Local Government Grants	Failure to Respond
84-129	Financial Institutions	Bank Facilities	Disagree
84-446	Financial Institutions	Historical Exhibition	Disagree
84-452	Financial Institutions	Revisory	Disagree
84-504	Financial Institutions	Currency Exchange	Disagree
84-704	Financial Institutions	Finance Agency	Disagree
84-941	Financial Institutions	Real Estate Loans	Disagree
84-1004	Financial Institutions	Financial Institutions	Agree
84-567	Gov. Plan, Comm., Dev. Disab.	Handicapped Children	Disagree
84-025	Historic Preservation	Creates Various Acts	Agree
84-706	Housing Development Authority	Low Income Housing	Disagree
84-445	Human Rights	Human Rights	Disagree
84-563	Human Rights	Human Rights	Disagree
84-445	Human Rights Commission	Human Rights	Disagree
84-484	Human Rights Commission	Human Rights	Disagree
84-485	Human Rights Commission	Human Rights	Agree
84-563	Human Rights Commission	Human Rights	Disagree
64-450	Industrial Commission	Workers Compensation	Disagree
84-451	Industrial Commission	Worker Terminology	Failure to Respond
84-007	Insurance	Malpractice Prosecution	Failure to Respond
84-201	Insurance	Insurance Code	Agree
84-209	Insurance	Dental Plan	Failure to Respond
84-221	Insurance	Tax Licensing	Failure to Respond
84-246	Insurance	Insurance Code	Disagree
84-266	Insurance	Various Acts	Disagree
84-280	Insurance	Health Insurance	Disagree
84-303	Insurance	Insurance Benefit	Failure to Respond
84-335	Insurance	Insurance Claims	Disagree
84-427	Insurance	Agency Rulemaking	Failure to Respond
84-480	Insurance	Insurance Claims	Disagree
84-502	Insurance	Insurance Code	Disagree
84-556	Insurance	Insurance Coverage	Failure to Respond
84-583	Insurance	Insurance Code	Disagree
84-618	Insurance	Insurance Code	Disagree
84-671	Insurance	Insurance Code	Agree
84-678	Insurance	Insurance Claims	Failure to Respond
84-680	Insurance	Insurance Claims	Disagree

Public Act	Agency	Subject	Response
84-714	Insurance	Retrospective Compensation	Disagree
84-715	Insurance	Insurance Code	Disagree
84-742	Insurance	Insurance Agents	Disagree
84-805	Insurance	Insurance Holding Companies	Agree
84-887	Insurance	Insurance Administrators	Disagree
84-934	Insurance	Insurance Requirements	Disagree
84-981	Insurance	Workers Comp. Insurance	Failure to Respond
84-989	Insurance	Medical Fees	Disagree
84-784	Joint Committee on Adm. Rules	Incorporation by Reference	Agree
84-008	Labor	Amusement Inspection	Agree
84-221	Labor	State Tax	Disagree
84-436	Labor	Child Labor	Disagree
84-525	Labor	Employee Discrimination	Disagree
84-527	Labor	Employee Controversy	Agree
84-532	Labor	Minimum Wage	Disagree
84-533	Labor	Amusement Ride Act	Disagree
84-675	Labor	Child Labor	Disagree
84-793	Labor	Administrative Rules	Agree
84-883	Labor	Wage Payment	Disagree
84-824	Legislative Reference Bureau	LRB Memory	Agree
84-816	Liquor Control Commission	Liquor Control	Disagree
84-857	Liquor Control Commission	Liquor License	Failure to Respond
84-487	Local Law Enf. Off. Train. Bd.	Firearms Training	Failure to Respond
84-124	Lottery	State Monies	Disagree
84-233	Lottery	Lottery	Disagree
84-261	Mental Health & Dev. Disabilities	Mental Health	Agree
84-309	Mental Health & Dev. Disabilities	Family Support	Agree
84-427	Mental Health & Dev. Disabilities	Agency Rulemaking	Negative
84-462	Mental Health & Dev. Disabilities	Special Education	Disagree
84-539	Mental Health & Dev. Disabilities	Develop. Disabilities	Agree
84-766	Mental Health & Dev. Disabilities	Clinical Social Workers	Disagree
84-871	Mental Health & Dev. Disabilities	DMHDD	Disagree
84-902	Mental Health & Dev. Disabilities	DMHDD	Disagree
84-918	Mental Health & Dev. Disabilities	Public Aid	Agree
84-1003	Min. & Female Bus. Loan Auth.	Minor./Female Business	Failure to Respond
84-221	Mines and Minerals	State Tax	Disagree

Public Act	Agency	Subject	Response
84-872	Mines and Minerals	Explosives Possession	Agree
84-244	Nuclear Safety	Radioactive Waste	Agree
84-496	Nuclear Safety	Radioactive Waste	Agree
84-649	Nuclear Safety	Radiation Protection	Agree
84-720	Nuclear Safety	Nuclear Safety	Agree
84-933	Nuclear Safety	X-Ray Workers	Agree
84-585	Pollution Control Board	EPA Coal Variance	Disagree
84-616	Pollution Control Board	EPA Zoning	Disagree
84-705	Pollution Control Board	EPA	Disagree
84-957	Pollution Control Board	Waste Incinerators	Disagree
84-022	Public Aid	Public Aid/Prescriptions	Agree
84-183	Public Aid	Alzheimer Victims	Agree
84-325	Public Aid	Health Finance Reform	Disagree
84-383	Public Aid	Nursing Homes	Disagree
84-410	Public Aid	Public Aid	Agree
84-415	Public Aid	Circuit Breaker	Disagree
84-417	Public Aid	Senior Citizen Relief	Disagree
84-421	Public Aid	Alzheimer/Nursing Homes	Disagree
84-457	Public Aid	Public Aid/Burial	Agree
84-508	Public Aid	Public Aid/Injury	Agree
84-528	Public Aid	Public Aid	Agree
84-568	Public Aid	Public Aid	Agree
84-572	Public Aid	Alcohol Abuse	Disagree
84-573	Public Aid	Public Aid	Disagree
84-758	Public Aid	DPA - Registration	Agree
84-773	Public Aid	Public Aid/Alzheimers	Agree
84-802	Public Aid	Public Aid	Agree
84-804	Public Aid	Public Aid	Agree
84-825	Public Aid	Public Aid	Disagree
84-854	Public Aid	Public Aid	Agree
84-855	Public Aid	Public Aid	Disagree
84-888	Public Aid	Marriage - Guidelines	Disagree
84-908	Public Aid	Public Aid	Agree
84-913	Public Aid	Medical Asst./Pregnancy	Agree

Public Act	Agency	Subject	Response
84-918	Public Aid	Public Aid	Agree
84-990	Public Aid	Public Aid	Disagree
84-157	Public Health	Pest Control	Disagree
84-221	Public Health	State Tax/Licensing	Disagree
84-272	Public Health	DUI	Disagree
84-290	Public Health	Cancer/DPH	Agree
84-313	Public Health	Hypothermia Thermometer	Agree
84-324	Public Health	Alzheimers Disease	Agree
84-340	Public Health	Food & Drug	Disagree
84-360	Public Health	Clinical Lab Facilities	Disagree
84-361	Public Health	Salvage Stores	Agree
84-362	Public Health	Pest Control	Disagree
84-378	Public Health	Alzheimers Disease	Agree
84-381	Public Health	Alzheimer Disease	Agree
84-405	Public Health	Burial of Dead Bodies	Disagree
84-420	Public Health	Alzheimers/DPH	Agree
84-427	Public Health	Agency Rulemaking	Failure to Respond
84-489	Public Health	Water Well/Pump	Disagree
84-490	Public Health	Volunteer Donor	Disagree
84-495	Public Health	Drug Selection	Disagree
84-513	Public Health	Alzheimers Disease	Agree
84-574	Public Health	Emergency Service	Agree
84-650	Public Health	Recreation Area	Agree
84-670	Public Health	Sewage Act	Agree
84-700	Public Health	Clinical Laboratory	Disagree
84-725	Public Health	Labeling Toxic Materials	Agree/Disagree
84-798	Public Health	Nursing Homes	Disagree
84-816	Public Health	Liquor Control	Disagree
84-839	Public Health	Funeral/Burial	Disagree
84-840	Public Health	Nurses - Loan Repayment	Agree
84-891	Public Health	Food - Drug Permits	Disagree
84-910	Public Health	Milk Products	Agree
84-929	Public Health	U of I Health Care	Disagree
84-951	Public Health	Asbestos Abatement	Agree
84-955	Public Health	Nursing Homes	Disagree
84-987	Public Health	Environmental Toxicology	Disagree
84-427	Racing Board	Agency Rulemaking	Failure to Respond

Public Act	Agency	Subject	Response
84-432	Racing Board	Agency Rulemaking	Disagree
84-531	Racing Board	Racing Board	Agree
84-719	Racing Board	Racing Board	Disagree
84-999	Racing Board	Racing Board	Agree
84-164	Registration & Education	State Records	Agree
84-186	Registration & Education	Pharmacists	Agree
84-190	Registration & Education	Pharmacy Technician	Agree
84-217	Registration & Education	Real Estate License	Disagree
84-218	Registration & Education	Pharmacy License	Agree
84-221	Registration & Education	State Tax	Disagree
84-242	Registration & Education	Collection Agency	Agree
84-248	Registration & Education	Medical Practice	Agree
84-253	Registration & Education	Nursing	Disagree
84-266	Registration & Education	Various Acts	Agree
84-275	Registration & Education	Real Estate License	Disagree
84-325	Registration & Education	Health Finance	Disagree
84-326	Registration & Education	Veterinary Technician	Agree
84-351	Registration & Education	Anesthesia Permit	Agree
84-365	Registration & Education	Dental Practice	Agree
84-414	Registration & Education	CPR Certificate	Disagree
84-427	Registration & Education	Agency Rulemaking	Agree
84-499	Registration & Education	Dental Practice	Disagree
84-595	Registration & Education	Physical Therapy	Disagree
84-657	Registration & Education	Barber & Cosmetology Act	Agree
84-759	Registration & Education	Medical Practice	Agree
84-793	Registration & Education	Administrative Rules	Disagree
84-821	Registration & Education	Time-Share Act	Agree
84-836	Registration & Education	Detective Qualifications	Agree
84-875	Registration & Education	Real Estate License	Agree
84-948	Registration & Education	Environmental Barriers	Disagree
84-183	Rehabilitation Services	Alzheimer Victims	Agree
84-207	Rehabilitation Services	Rehab. Serv./Alzheimer	Disagree
84-297	Rehabilitation Services	Disabled Person	Disagree
84-881	Rehabilitation Services	Disabled Adult/Abuse	Agree
84-959	Rehabilitation Services	Blind Vendors	Agree
84-112	Revenue	Vehicle Code	Failure to Respond

Public Act	Agency	Subject	Response
84-119	Revenue	Water Commission	Failure to Respond
84-126	Revenue	Education Reform	Failure to Respond
84-127	Revenue	Income Tax	Failure to Respond
84-155	Revenue	Farm Equipment	Failure to Respond
84-163	Revenue	County Tax	Failure to Respond
84-219	Revenue	Auto Rental	Failure to Respond
84-221	Revenue	State Tax	Failure to Respond
84-222	Revenue	Mortgage Lender	Agree
84-223	Revenue	Gasohol Tax	Failure to Respond
84-228	Revenue	Bingo Act	Agree
84-229	Revenue	Use Tax	Failure to Respond
84-261	Revenue	Mental Health Education	Failure to Respond
84-307	Revenue	Public Utilities Tax	Failure to Respond
84-317	Revenue	Mortgage Foreclosure	Failure to Respond
84-341	Revenue	Income Tax	Failure to Respond
84-368	Revenue	Oil Field Equipment	Failure to Respond
84-376	Revenue	Enterprise Zone	Failure to Respond
84-392	Revenue	Bingo	Agree
84-397	Revenue	Homestead Exemption	Disagree
84-400	Revenue	Tax Exemptions	Failure to Respond
84-422	Revenue	Motor Fuel Tax	Failure to Respond
84-430	Revenue	Use Tax	Failure to Respond
84-516	Revenue	Sales Tax	Failure to Respond
84-687	Revenue	Bingo	Agree
84-735	Revenue	Sales Tax	Failure to Respond
84-777	Revenue	Property Tax	Disagree
84-807	Revenue	Senior Citizen Assessment	Disagree
84-940	Revenue	Enterprise Zone	Failure to Respond
84-983	Revenue	Revenue	Failure to Respond
84-793	Sec. of State Merit Comm.	Administrative Rules	Undecided
84-109	Secretary of State	Build Illinois Act	Disagree
84-112	Secretary of State	License Renewal	Agree
84-131	Secretary of State	Silver Saver Passport	Disagree
84-221	Secretary of State	State Tax	Disagree
84-226	Secretary of State	Vehicle Code	Disagree
84-270	Secretary of State	Drivers License	Disagree

Public Act	Agency	Subject	Response
84-272	Secretary of State	DUI	Agree
84-322	Secretary of State	Notary Public Act	Disagree
84-411	Secretary of State	Vehicle Code	Disagree
84-444	Secretary of State	Literacy Programs	Agree
84-602	Secretary of State	Motorcycle Handgrips	Disagree
84-641	Secretary of State	Vehicle Operator License	Agree
84-680	Secretary of State	Improper Claims	Disagree
84-734	Secretary of State	Handicap Decal	Agree
84-793	Secretary of State	Adm. Rules/Standards	Disagree
84-796	Secretary of State	Dealer Insurance	Disagree
84-833	Secretary of State	Not-For-Profit Corp.	Disagree
84-863	Secretary of State	Driver Ed Teachers	Agree
84-868	Secretary of State	Disabled Parking	Disagree
84-869	Secretary of State	Securities Law	Agree
84-899	Secretary of State	Aggravated DUI	Disagree
84-924	Secretary of State	Corporate File Requirement	Agree
84-954	Secretary of State	Corporate File Requirement	Disagree
84-968	Secretary of State	Literacy Program	Agree
84-980	Secretary of State	Literacy Program	Disagree
84-986	Secretary of State	Multi-Year Plate	Agree
84-018	State Board of Education	Early Childhood Education	Agree
84-105	State Board of Education	Community College Grant	Disagree
84-109	State Board of Education	Build Illinois Act	Agree
84-126	State Board of Education	Educational Reform	Agree
84-178	State Board of Education	School Absences	Disagree
84-191	State Board of Education	Student Records	Agree
84-221	State Board of Education	State Tax	Disagree
84-234	State Board of Education	Missing Children	Disagree
84-287	State Board of Education	Special Education	Agree
84-289	State Board of Education	School Aid Formula	Agree
84-370	State Board of Education	Petition Objections	Failure to Respond
84-458	State Board of Education	School Code - Relocation	Agree
84-507	State Board of Education	High Impact Training	Disagree
84-509	State Board of Education	Comm. College Annexation	Disagree
84-520	State Board of Education	Teacher Certification	Agree
84-523	State Board of Education	Athletic Competition	Disagree
84-526	State Board of Education	Handicapped Child	Disagree
84-534	State Board of Education	Parenting Education	Disagree

Public Act	Agency	Subject	Response
84-537	State Board of Education	Child Abuse Detection	Disagree
84-540	State Board of Education	Teacher Certification	Disagree
84-575	State Board of Education	Administrative Certificates	Agree
84-662	State Board of Education	Drop Out Rate	Disagree
84-664	State Board of Education	Hispanic Special Education	Disagree
84-711	State Board of Education	New Student Records	Disagree
84-712	State Board of Education	Education Partnership Act	Agree
84-725	State Board of Education	Toxic Substance Labeling	Disagree
84-749	State Board of Education	Urban Schools	Agree
84-782	State Board of Education	Superintendent Qualifications	Agree
84-793	State Board of Education	Adm. Rules/Standards	Agree
84-814	State Board of Education	Define Secondary School	Disagree
84-829	State Board of Education	Handicapped Project	Disagree
84-914	State Board of Education	Health Prevention	Disagree
84-920	State Board of Education	SBE Responsibilities	Agree
84-921	State Board of Education	Disturbed Children	Disagree
84-935	State Board of Education	Urban Schools	Agree
84-938	State Board of Education	Work Pilot Projects	Disagree
84-972	State Board of Education	Employee Evaluation	Agree
84-017	State Board of Elections	State Central Committee	Failure to Respond
84-329	State Board of Elections	Absentee Voter	Failure to Respond
84-386	State Board of Elections	Registration Record Card	Failure to Respond
84-401	State Board of Elections	Election Petitions	Failure to Respond
84-427	State Board of Elections	Agency Rulemaking	Failure to Respond
84-586	State Board of Elections	Election Code	Failure to Respond
84-658	State Board of Elections	Write-In Candidate	Failure to Respond
84-659	State Board of Elections	Electronic Voting	Failure to Respond
84-698	State Board of Elections	Uncontested Office	Failure to Respond
84-751	State Board of Elections	Referenda	Failure to Respond
84-757	State Board of Elections	Candidate Certification	Failure to Respond
84-762	State Board of Elections	Voter Regis./Residency	Failure to Respond
84-790	State Board of Elections	Vacancy Procedures	Failure to Respond
84-808	State Board of Elections	Absentee Ballots	Failure to Respond
84-809	State Board of Elections	Ballot Application	Failure to Respond
84-820	State Board of Elections	Contributions/Expenses	Failure to Respond
84-837	State Board of Elections	Assessment Supervisor	Failure to Respond
84-861	State Board of Elections	Election Code Revisions	Failure to Respond
84-862	State Board of Elections	Combine Precincts	Failure to Respond

Public Act	Agency	Subject	Response
84-917	State Board of Elections	Absentee Student Voting	Failure to Respond
84-928	State Board of Elections	Committeemen Votes	Failure to Respond
84-966	State Board of Elections	Discovery Recounts	Failure to Respond
84-971	State Board of Elections	Election Judges	Failure to Respond
84-834	State Fire Marshal	Space Heat Safety	Failure to Respond
84-877	State Fire Marshal	Self-Service Gas	Failure to Respond
84-975	State Fire Marshal	Fire Prevention	Agree
84-025	State Police	Various Acts	Failure to Respond
84-158	State Police		
84-171	State Police	Missing Child	Failure to Respond
84-231	State Police	Gang Violence	Failure to Respond
84-234	State Police	Missing Children	Failure to Respond
84-255	State Police	Criminal I.D.	Failure to Respond
84-442	State Police	Rifles & Shotguns	Failure to Respond
84-646	State Police	Boat Registration	Failure to Respond
84-819	State Police	Firearms Purchase	Failure to Respond
84-407	State Scholarship Commission	Scholarship Assistance	Agree
84-109	Transportation	Build Illinois Act	Agree
84-121	Transportation	Drainage/Agricultural	Agree
84-292	Transportation	DOT Railroad	Agree
84-566	Transportation	Vehicle Permits	Agree
84-598	Transportation	Vehicle Code	Disagree
84-691	Transportation	Vehicle Code	Disagree
84-730	Transportation	Vehicle Code	Agree
84-813	Transportation	Garbage Trucks	Agree
84-873	Transportation	Vehicle Code	Disagree
84-900	Transportation	DOT - Flood Relief	Disagree
84-959	Transportation	Blind Vendors	Disagree
84-993	Transportation	Water Resources	Disagree
84-124	Treasurer	State Monies	Failure to Respond
84-319	Treasurer	State Monies	Failure to Respond
84-221	U of I Bd. of Trustees	State Tax	Failure to Respond
84-133	Veterans' Affairs	POWs Free Admission	Failure to Respond
84-135	Veterans' Affairs	Veterans Home	Failure to Respond
84-142	Veterans' Affairs	MIA/POW Scholarships	Failure to Respond
84-143	Veterans' Affairs	Veterans Home	Failure to Respond
84-144	Veterans' Affairs	Veterans Burial	Failure to Respond
84-146	Veterans' Affairs	Veteran Scholarships	Failure to Respond

PUBLICATIONS OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Illinois Regulations, a weekly publication of the Joint Committee on Administrative Rules, is the result of the Regulatory Flexibility Law which became effective in Illinois on January 1, 1982. This law assumes that small businesses may be unduly burdened by rules promulgated by State agencies. Agencies, therefore, are required to provide some flexibility for small businesses regarding compliance and reporting requirements contained in rules whenever possible. To do this, small businesses are afforded the opportunity to raise issues and to suggest alternatives to rulemakings proposed by State agencies. In return, agencies, prior to the adoption of any rule, must acknowledge any comments offered and provide an explanation as to why it declined to implement any suggestions made by small businesses.

Subscribers to Illinois Regulations receive a weekly summary of proposed new and amendatory rulemakings published in the Illinois Register, rulemakings affecting small businesses, and adopted rules; a list of rulemakings scheduled to be considered by the Joint Committee, and a summary of recommendations and objections issued by the Joint Committee. The section on proposed rulemaking also provides the name and address of agency contact persons and the length of time the agencies have allowed for public comments.

Illinois Regulations is currently undergoing an extensive revision in order to make the information provided in the publication more understandable to small businesses and other subscribers. The revised format will be implemented in early 1986. The format of each section will be changed to a subject area classification of rules, rather than the current method of listing rules according to agency. In addition, the publication will contain more commentary on subjects of interest to small businesses, such as information on pertinent legislation, an explanation of Joint Committee actions and the provisions of the Illinois Administrative Procedure Act, and in-depth analyses of rulemakings of interest to subscribers. By implementing these changes, the focus of Illinois Regulations, which will become Illinois Regulation, will be directed toward the individuals being regulated, rather than the governmental agencies which are doing the regulating. The Joint Committee believes that

this revised report will provide a more understandable and comprehensive reporting of the changes in Illinois rules, and will encourage subscribers to submit their comments to the agency and to the Joint Committee.

In addition to Illinois Regulations, the Joint Committee has two publications available which have also been designed to enhance the public's knowledge of the rulemaking process. A Citizen's Guide to the Illinois Administrative Procedure Act (1986) and Catalog of Business Regulations (1983) each provide the information necessary for interpreting the effects of agency administrative action upon small businesses as well as providing the procedures necessary to participate in the rulemaking process.

A Citizen's Guide to the Illinois Administrative Procedure Act provides a clear and simple explanation of the Act to participants and potential participants in the rulemaking process. In addition to explaining the significance of the Act, the Citizen's Guide gives a section-by-section explanation of every provision of the Act. Also found in the Guide are answers to frequently asked questions concerning the citizen's role in the rulemaking process as well as sources of additional information for interested persons. In 1985, the Citizen's Guide was revised and updated to reflect changes made in the Illinois Administrative Procedure Act subsequent to the initial publication of the Guide in 1983, making it current through January, 1986. The Joint Committee is confident that the Guide will increase the users' confidence in their ability to influence the substance of agency rules, and consequently, increase the level of public participation in the rulemaking process.

The Catalog of Business Regulations, which was published in conjunction with the Department of Commerce and Community Affairs and the Illinois Commission on Intergovernmental Cooperation, identifies thirty-three different agencies with more than five hundred sets of rules that impact business. The rules are separated into nine categories, with the official name of each rule appearing as it does in the set of rules filed with the Secretary of State, along with the agency responsible for administration of the rule, and the law that the rule implements. Related State or federal laws or professional standards affecting the substance of the rule are also included. A synopsis of the scope of the rule and the agencies contact address also appear for

each of the more than 500 rules included in the catalog. The Catalog of Business Regulations has been praised by national associations as the first compilation of its type produced by any State.

These educational publications demonstrate the Joint Committee's commitment to ensuring that the public is made aware of the opportunities for public participation in the rulemaking process available through the Illinois Administrative Procedure Act.

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COURT DECISIONS

Section 7.05 of the Illinois Administrative Procedure Act requires that the Joint Committee study the impact of court rulings and administrative actions on agency rules and rulemaking. In order to carry out this responsibility, the Joint Committee reviews recent court decisions and Attorney General opinions, and monitors pending litigation which may affect administrative rulemaking. Several noteworthy legal decisions involving interpretations of the Illinois Administrative Procedure Act were issued during the past year by Illinois courts. The following is a brief summary of those decisions.

1. In Hernandez v. Fahner, 125 Ill. App. 372, 481 N.E.2d 1004 (1st Dist. 1985), the appellate court considered an appeal from the Cook County Circuit Court invalidating an Attorney General policy requiring applicants under the Crime Victims Compensation Act to document their citizenship or legal alien status.

There were two issues in this case. First, whether the Attorney General abused his discretion by defining a "person" in a manner contrary to statute. Second, whether the invalidated policy qualified as a "rule" under the Illinois Administrative Procedure Act thus entitling the plaintiff to attorney's fees under Section 14.1 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1014.1).

With respect to the first issue, the court found that a State agency or official cannot impose by regulation or practice requirements inconsistent with the statute conferring authority to that agency. The Crime Victims Compensation Act (Ill. Rev. Stat. 1983, ch. 270, par. 76.1) provides that a "person" is entitled to compensation under the Act if he or she complies with six enumerated conditions. Immigration status was not enumerated as a condition. The Attorney General contended the Crime Victims Compensation Act gave broad discretionary power to administer the rule. However, the court found that discretionary rulemaking authority must be governed by "intelligible standards" found in the statute granting the agency its authority. The court held that an agency cannot go beyond these statutory standards in making rules.

With respect to the second issue, the court found the plaintiff was entitled to attorney's fees under Section 14.1 of the Illinois Administrative Procedure Act. Section 14.1(b) of the Act provides for litigation expenses and attorney's fees to any party which has an administrative rule invalidated (Ill. Rev. Stat. 1983, ch. 127, par. 1015.1(b)).

The court found the documentation requirement was a "rule" pursuant to Section 3.09 of the Illinois Administrative Procedure Act, which defines rule as "each agency statement of general applicability that implements, applies, interprets or prescribes law or policy" (Ill. Rev. Stat. 1983, ch. 127, par. 1003.09)

The Attorney General contended that the Illinois Administrative Procedure Act did not apply in this case because the Attorney General's office was not an agency nor was the policy invalidated a rule. The court found that based on the Attorney's General's function in administering the Crime Victims Assistance Act, the Attorney General was an administrative agency. The court also found since the policy affected the private rights and procedures available to persons outside the Attorney General's office that this type of policy is specifically included within the definition of a "rule."

Since the rule was invalidated for being beyond the agency's statutory authority, the plaintiff was entitled to attorney's fees under Section 14.1 of the Illinois Administrative Procedure Act.

2. In Fuller v. Coler, No. 84-L-20, Champaign County Circuit Court 8, entered April 26, 1985, the court considered the Illinois Department of Public Aid's use of peremptory rulemaking to invalidate the supplemental assistance program. The court found that the rulemaking was improper and reversed the agency's decision based upon the Department's improper use of peremptory rulemaking, which precluded the general rulemaking provisions of the Illinois Administrative Procedure Act.

Under Section 5.03 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1005.03), peremptory rulemaking is used when rulemaking is required by federal law, federal rules and regulations, or an

order of the court and the agency is precluded from fulfilling the requirements imposed by Section 5.01 of the Illinois Administrative Procedure Act, and the agency is precluded from exercising discretion as to the content of the rule.

The Department contended that the withdrawal of federal matching funds to the supplemental assistance program by the federal government required the State to abolish the program under federal law, thus invoking peremptory rulemaking.

The court found this contention to be against the manifest weight of the evidence. The court reasoned that the State had a complete range of choices to continue, modify or abolish the program. Abolition, the court stated, was in no way mandated, and therefore peremptory rulemaking was improper.

3. In Franz v. Edgar, 113 Ill. App. 3d 523, 478 N.E.2d 1165 (4th Dist. 1985) the appellate court found the Secretary of State violated the plaintiffs due process rights by denying reinstatement of the plaintiff's driving privileges. The plaintiff, who had lost his license for a Driving Under the Influence of Controlled Substances conviction (DUI), was required under a Secretary of State rule to show 12 consecutive months of "documented sobriety" or documented abstinence by any applicant with a "clinical impression" of alcohol abuse. The plaintiff's reinstatement was denied on the ground he failed to meet this requirement at the hearing.

The court found the rule provided so little guidance as to what the applicant is required to prove for reinstatement that due process was offended. Section 4.02 of the Illinois Administrative Procedure Act requires an agency to state the standards by which it exercises discretionary power. The court reasoned that "minimal due process requires that an applicant know the standards under which his request for reinstatement will be judged." Since the rule gave no guidance as to what constitutes a "clinical impression" of alcohol abuse or "documented sobriety," the plaintiff was denied due process.

4. In Clingenpeel v. Edgar, 133 Ill. App. 3d 507, 478 N.E.2d 1172 (4th Dist. 1985) the court reviewed the application of a Secretary of State rule

enforced retroactively in a reinstatement of driving privileges hearing. The court found the plaintiff's reinstatement denial was based on an policy which was later codified into a rule that multiple Driving Under the Influence of Controlled Substances (DUI) convictions create a presumption of an alcohol problem and denies reinstatement until 5 years after the last conviction.

The court found that application of the rule denied the plaintiff due process. The court found the policy qualified as "rule" as defined in the Illinois Administrative Procedure Act because it affects the private rights and procedures available to persons outside the agency. Section 4.02 of the Illinois Administrative Procedure Act states:

Each rule which implements a discretionary power to be exercised by an agency shall include the standards by which the agency shall exercise the power. Such standards shall be stated as precisely and clearly as practicable under the conditions, to inform those affected. (Ill. Rev. Stat. 1983, ch. 127, par. 1004.02)

Moreover, Section 4(c) of the Act states:

No agency rule is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection and filed with the Secretary of State as required by this Act. This provision is not applicable in favor of any person or party who has actual knowledge thereof. (Ill. Rev. Stat. 1983, ch. 127, par. 1004(c))

At the time of the hearing, the Secretary's policy had not been promulgated as a rule pursuant to the Act. Since the rule was not properly promulgated until after the hearing, the court found the plaintiff's due process rights were violated since he could not know the standards under which reinstatement was judged.

5. In Mahonie v. Edgar, 131 Ill. App. 3d, 476 N.E.2d 474 (1st Dist. 1985), the court heard the appeal of motorists whose driving privileges had been revoked. The plaintiff contended that she was denied due process because in the conduct of the administrative hearing the defendant representative was allowed to engaged in leading, argumentative, suggestive, and badgering

questions. She further contends that the hearing officer joint in the "attack" and never allowed her to explain her answers or cross-examine witnesses.

The court agreed with the plaintiff that an administrative proceeding should not be partisan but should be an investigation conducted for the purpose of finding fact. The opportunity to be heard, raise objections, and cross-examine adverse witnesses are essential to a fair hearing.

However, the court found nothing in the record to indicate the plaintiff was denied the right to cross-examine witnesses and presenting evidence, nor was the victim of unfair rulings. The court disagreed with the plaintiff's characterization of the hearing and commented many of her difficulties resulted from not being represented by counsel.

6. In Breiner v. Edgar, 86 Ill. Dec. 176, 130 Ill. App. 3d 1010, 473 N.E.2d 1373 (4th Dist. 1985) the court heard the Secretary of State's appeal of a circuit court order overturning the agency's decision to deny reinstatement of plaintiff's driving privileges permit on the grounds it was against the manifest weight of the evidence, and was denied due process in the hearing to consider the request for restricted driver's permit.

The courts recognized that that courts of review should not reweigh the evidence and should only overturn an agency decision if it is contrary to the manifest weight of the evidence. The reviewing court agreed with the agency's findings of fact, and therefore was not contrary to the manifest weight of the evidence.

The plaintiff further claimed that introduction of incompetent evidence prejudiced him at the hearing to issue a restricted driver's permit. The court reasoned that admission of incompetent evidence in an administrative hearing is not grounds for reversal if the decision of the administrative agency is supported by substantial competent evidence and therefore is not a denial of due process. The court found the decision was based on substantial competent evidence, therefore, there was no basis for reversal.

7. The courts will give great weight to an agency's interpretation of its own rules but will overturn an agency construction of a rule which is considered unreasonable, arbitrary, or capricious. In the case of Continental Grain Company v. Illinois Pollution Control Board, 131 Ill. App. 3d 838, 475 N.E.2d 1362 (5th Dist. 1985), the petitioner filed suit seeking to overturn a Pollution Control Board decision to fine Continental \$10,000 for violating Air Pollution Rule 203(d)(8)(B)(iv)(c)(2). The agency claimed that though the Continental facility was not in the specifically mentioned townships covered by the rules, that township was intended to be covered.

The court rejected this contention. The court reasoned that rules are governed by the same rules of construction as statutes. Rules of construction are only useful when there is some ambiguity in the language. In this case, the court found the plain meaning of the rule prevailed. If there was an oversight it had to be rectified by proper amendment of the rules. Agencies were not allowed to change their rules by interpretation when that interpretation is clearly contrary to the language of the rules.

8. In Moriarty v. Civil Service Commission, 131 Ill. App. 3d 198, 474 N.E.2d 1291 (4th Dist. 1985), the appellate court considered the case of Jacksonville Mental Health Center employee who appealed a Civil Service Commission decision to lay her off. The plaintiff raised two issues. First she claimed that the Civil Service Commission decision was against the manifest weight of the evidence and the layoff, therefore, was improper. Second, she claimed that statistical methodology used to measure the impact of the layoff on her sex and race group was improperly applied in her layoff hearing because it was not promulgated as a rule under the Illinois Administrative Procedure Act (Ill. Rev. Stat 1983, ch. 127, par. 1001 et seq.)

As to the first issue, the court found the findings and conclusions of an administrative agency are considered prima facie true and the court may not reweigh the evidence or make independent determinations of fact. The court found that the decision was not against the manifest weight of the evidence.

With respect to the second issue, the court found that the statistical methodology was not a rule under the Illinois Administrative Procedure Act. Under Section 3.09 of the Act, a "rule" does not include statements concerning only internal management of an agency and does not affect the rights and procedures of parties outside the agency (Ill. Rev. Stat. 1983, ch. 127, par. 1003.09.) The statistical methodology did not qualify as a rule because it was an internal management statement which the court said was simply reasoning by which the agency reached its decision.

9. In Bodine v. Civil Service Commission, 134 Ill. App. 3d 341, 480 N.E.2d 160 (4th Dist. 1985), the appellate court considered an appeal from a civil Service Commission decision discharging a Department of Central Management Services employee. The plaintiff raised two issues. First, a letter sent from the director of the Department to the Civil Service Commission urging discharge should have been stricken because it violated Section 15 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1015) and due process. Second, the findings of fact were not specific enough for a court to review.

With respect to the first issue, the court found that the letter did not violate the Illinois Administrative Procedure Act. Section 15 of the Act states that after notice of a contested case, communication by agency members, employees, or hearing examiners with any person or party connected with the case is banned (Ill. Rev. Stat. 1983, ch. 127, par. 1015).

The court pointed out Section 15 prohibits ex parte communications by agency personnel rather than persons connected with a party such as the Central Management Services director.

However, the court did find that the letter violated the plaintiffs due process rights because the additional memorandum in favor of the Management Services' position was inherently unfair and prejudicial on the grounds that the plaintiff did not have an opportunity to respond.

As to the second issue, the court found that the findings of fact were insufficiently specific. Section 14 of the Illinois Administrative Procedure Act

requires that an agency put findings of fact in writing along with a concise statement of underlying facts supporting the findings (Ill. Rev. Stat. 1983, ch. 127, par. 1015). The court found that these finds must be specific enough for a reviewing court to make an intelligent decision.

Five separate charges were made against the plaintiff. The general statement of facts incorporated in the decision was found to be insufficiently specific to indicate which charges the Commission found to have been proved to support the discharge.

10. In City of Chicago v. People of Cook County, 133 Ill. App. 3d 435, 478 N.E.2d 1639 (1st Dist. 1985) the court reviewed ICC standards for utility rate-making. One of the parties to the litigation contended the interim standard was void because it was never promulgated as an agency rule pursuant to Section 17 of the Illinois Administrative Procedure Act. Section 17 of the Illinois Administrative Procedure Act states:

Every agency which is empowered by law to engage in ratemaking activities shall establish by rule not inconsistent with the provisions of the law establishing such ratemaking jurisdiction, the practice and procedure to be followed in rate-making activities before the agency. (Ill. Rev. Stat. 1983, ch. 127, par. 1017)

The court found that this section is not applicable to the standards used by an administrative agency in arriving at its decisions. The court reasoned that this section only requires that rules relating to "practice and procedure" be promulgated. The choice of proceeding by rule or by informal processes, the court found, was up to the discretion of the agency in this case.

While Section 4.02 of the Illinois Administrative Procedure Act requires that standards for the exercise of discretionary power be stated, Section 17 only requires standards for practice and procedure in rate-making.

SECTION TWO

SPECIFIC STATEMENTS OF OBJECTION AND RECOMMENDATION

Introduction

Section Two summarizes each Statement of Objection and Statement of Recommendation issued by the Joint Committee on Administrative Rules in 1985. This section is divided into five parts to correspond to the five review programs which are conducted by the Joint Committee: review of general rulemaking, review of emergency rulemaking, review of peremptory rulemaking, review of existing rules, and the complaint review program. An in-depth discussion of these five programs, including a statistical analysis of these Joint Committee Objections and Recommendations, is found in Section One of this report. Within each part, the material is organized alphabetically by issuing agency, and rule title. In addition to the summary, each entry contains the rule title and Administrative Code citation, and, in the case of proposed, emergency and peremptory rulemakings, the date and citation to the issue of the Illinois Register when the rulemaking was originally published, and where the text of any statements of objection and/or recommendation issued by the Joint Committee can be found.

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1985 OBJECTIONS AND RECOMMENDATIONS TO GENERAL RULES

AGING, DEPARTMENT ON

Community Care Program (89 Ill. Adm. Code 240)

Proposal Originally Published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 13857). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20942).

Objection: The Joint Committee objected to Sections 240.963(b)(2)(B) and 240.966(b)(2)(A) of the Department on Aging's proposed rules governing educational requirements for homemaker and program staff aide positions because the Department has not provided an adequate justification and rationale for the proposed rules as required by Section 220.900(b)(1) of the Joint Committee's Operational Rules.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

AGRICULTURE, DEPARTMENT OF

Meat and Poultry Inspection (8 Ill. Adm. Code 125.20(c))

Proposal Originally Published in Illinois Register, October 5, 1984 (8 Ill. Reg. 18734). This Joint Committee action from the meeting of January 17, 1985 was published in the Illinois Register, February 1, 1985 (9 Ill. Reg. 1458).

Objection: The Joint Committee objected to Section 125.20(c) of the Department of Agriculture's proposed Meat and Poultry Inspection rules because, contrary to the provisions of Section 6.02 of the Illinois Administrative Procedure Act, that section incorporates by reference guidelines of United States Department of Agriculture, which are not "regulations or rules of an agency of the United States or of a nationally recognized organization or association."

Agency Response: Refusal to Modify or Withdraw, published February 8, 1985 (9 Ill. Reg. 1477). Response received by the Joint Committee January 22, 1985.

Joint Committee Response: February 19, 1985, no further action.

Published as Adopted: February 8, 1985 (9 Ill. Reg. 1782), effective January 24, 1985.

CAPITAL DEVELOPMENT BOARD

Pregualification and Suspension of Contractors (44 Ill. Adm. Code 950)

Proposal Originally Published in the Illinois Register, April 26, 1985 (9 Ill. Reg. 5468). This Joint Committee action from the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12395).

Objection: The Joint Committee objected to Section 950.510(f)(9) of the Capital Development Board rules entitled "Prequalification and Suspension of Contractors" (44 Ill. Adm. Code 950) because the "standards of quality" for the construction industry used by the Board in determining whether a contractor will be suspended from prequalification for construction projects are not stated as precisely and clearly as practical, in order to inform those persons affected, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Agreement to Modify, published November 8, 1985 (9 Ill. Reg. 17455). Response received by the Joint Committee December 27, 1985.

Joint Committee Response: Pending.

Published as Adopted: November 8, 1985 (9 Ill. Reg. 17321), effective October 29, 1985.

Prequalification of Architects and Engineers (44 Ill. Adm. Code 980)

Proposal Originally Published in the Illinois Register, April 26, 1985 (9 Ill. Reg. 5475). This Joint Committee action from the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12395).

Objection: The Joint Committee objected to Section 980.180(b)(2) of the Capital Development Board's rules entitled "Prequalification of Architects and Engineers" (44 Ill. Adm. Code 980) because the standards and codes to be used by architects and engineers in construction contracts are not stated as precisely and clearly as practicable in order to inform those persons affected, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published November 11, 1985 (9 Ill. Reg. 17456). Response received by the Joint Committee December 27, 1985.

Joint Committee Response: Pending.

Published as Adopted: November 8, 1985 (9 Ill. Reg. 17329), effective October 20, 1985.

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

Merit and Fitness (80 Ill. Adm. Code 302.785(b))

Proposal Originally Published in Illinois Register, January 4, 1985 (9 Ill. Reg. 3). This Joint Committee action from the meeting of April 16, 1985 was published in the Illinois Register, May 3, 1985 (9 Ill. Reg. 6396).

Objection: The Joint Committee objected to Section 302.785(b) of the Department of Central Management Services' rules entitled "Merit and Fitness" (80 Ill. Adm. Code 302) because the rule does not include the standards used by the Director of the Department in determining whether to grant, at an employee's request, initial or ongoing approval of indefinite leave status without pay to said employee, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Agreement to Modify, published May 24, 1985 (9 Ill. Reg. 7946). Response received by the Joint Committee May 3, 1985.

Joint Committee Response: June 19, 1985, no further action.

Published as Adopted: May 24, 1985 (9 Ill. Reg. 7907), effective May 15, 1985.

Standard Procurement (44 Ill. Adm. Code 1)

Proposal Originally Published in the Illinois Register, May 3, 1985 (9 Ill. Reg. 5877). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20945).

Objection 1: The Joint Committee objected to Section 1.2215(g)(3) of the Department's proposed rules entitled "Standard Procurement" because the Department has limited the definition of "minority" to minority males in violation of Section 2(e) of the Minority and Female Business Enterprise Act.

Objection 2: The Joint Committee objected to Section 1.2215(b) of the Department's rules entitled "Standard Procurement" because that section conflicts with Section 4 of the Minority and Female Business Enterprise Act.

Objection 3: The Joint Committee objected to Section 1.2215(i)(5) of the Department's proposed rules because this section fails to provide the standards used by the Minority and Female Business Enterprise Council in determining whether to accept a certification that a business is minority or female-owned which has been issued by another organization in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 4: The Joint Committee objected to Section 1.2215(d) of the Department's rules because the rule conflicts with Section 7(2) of the Minority and Female Business Enterprise Act. In addition, the Joint Committee objected to Section 1.2215(d) of the Department's proposed rules because that section fails to enumerate as precisely and clearly as practicable, the standards the Council will use in determining whether to exempt a class of contracts from the requirements of the Minority and Female Business Enterprise Act in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 5: The Joint Committee objected to Section 1.2215(m)(4) of the Department's proposed rules because this section fails to provide the standards used by the Council in determining whether to require an agency to appear before the Council and whether to prepare a report specifying that

an agency has not made a serious effort to reach goals set by the Minority and Female Business Enterprise Act and the Department's rules.

Recommendation 1: The Joint Committee recommended to the Department of Central Management Services that it seek legislation amending Section 4 of the Minority and Female Business Enterprise Act clarifying the division of contracts intended for minority and female owned businesses.

Recommendation 2: The Joint Committee recommended to the Department of Central Management Services that it seek legislation amending the Illinois Purchasing Act to authorize the Department to revoke its approval of State agency procurement rules.

Agency Response to Objections: Pending.

Agency Response to Recommendations: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

Facilities and Programs Exempt From Licensure (89 Ill. Adm. Code 377.4(d))

Proposal Originally Published in Illinois Register, February 1, 1985 (9 Ill. Reg. 1193). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8198).

Recommendation: The Joint Committee suggested to the Department of Children and Family Services that it seek legislation amending the Child Care Act of 1969 to delete the requirement of Section 7.1 that a child care facility have on file records designating the manner in which children are to be released.

Agency Response: Agree. Response received by the Joint Committee September 10, 1985.

Joint Committee Response: September 19, 1985, recommendation to draft legislation.

Published as Adopted: July 19, 1985 (9 Ill. Reg. 11282), effective July 15, 1985.

Governor's Youth Services Initiative (89 Ill. Adm. Code 311)

Proposal Originally Published in the Illinois Register, April 5, 1985 (9 Ill. Reg. 4254). This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14032).

Recommendation: The Joint Committee suggested to the Department of Children and Family Services that it seek legislation to amend "An Act creating the Department of Children and Family Services, codifying its powers and duties, and repealing certain Acts and Sections herein named" (Ill. Rev. Stat. 1983, ch. 23, par. 5001 et seq.) to provide specific statutory authorization for the Governor's Youth Services Initiative.

Agency Response: Agree. Response received by the Joint Committee November 15, 1985.

Joint Committee Response: December 11, 1985, recommendation to draft legislation.

Published as Adopted: October 11, 1985 (9 Ill. Reg. 15486), effective October 15, 1985.

Licensing Standards for Child Care Institutions and Maternity Centers (89 Ill. Adm. Code 404)

Proposal Originally Published in the Illinois Register, July 12, 1985 (9 Ill. Reg. 10499). This Joint Committee action from the meeting of October 16, 1985 was published in the Illinois Register, November 1, 1985 (9 Ill. Reg. 17053).

Recommendation: The Joint Committee suggested that the Department of Children and Family Services seek legislation to amend the Child Care Act of 1969 (Ill. Rev. Stat. 1983, ch. 23, par. 2211 et seq.) to allow the Department to require child care institutions and maternity centers to provide services to persons age 18 and older who have not completed a public school secondary education or who have been referred by a parent or guardian.

Agency Response: Agree. Response received by the Joint Committee December 4, 1985.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Relative Home Placement (89 Ill. Adm. Code 335.200, 335.302, 335.302(d), 335.304, 335.306, 335.308, 335.310, 335.314, 335.316, 335.318, 335.320, 335.322, 335.328, 335.330, 335.338)

Proposal Originally Published in the Illinois Register, March 1, 1985 (9 Ill. Reg. 2598). This Joint Committee action from the meeting of September 19, 1985 was published in the Illinois Register, October 4, 1985 (9 Ill. Reg. 15071).

Objection 1: The Joint Committee objected to Sections 335.200, 335.302 and 335.316 of the Department of Children and Family Services' proposed rulemaking because the rules violate Section 4.02 of the Illinois Administrative Procedure Act by not providing, as clearly and practicably as possible,

standards for use by supervising agencies governing placement pre-conditions, general foster home requirements and the number of children.

Objection 2: The Joint Committee objected to Sections 335.308, 335.310, 335.314 and 335.338 of the Department of Children and Family Services' proposed rulemaking because the rules violate Section 4.02 of the Illinois Administrative Procedure Act by not providing, as clearly and practicably as possible, standards for use by supervising agencies governing business and employment of relative foster parents, qualifications of relative foster parents and cooperation with the supervising agency and the Department.

Objection 3: The Joint Committee objected to Sections 335.304, 335.306, 335.318, 335.320, 335.322 335.326, 335.328 and 335.330 of the Department of Children and Family Services' proposed rulemaking because the rules violate Section 4.02 of the Illinois Administrative Procedure Act by not providing, as clearly and practicably as possible, standards for use by supervising agencies governing sleeping arrangements, nutrition and meals, basic needs and health needs, religion, discipline, emergency care and release of children in relative home placements.

Objection 4: The Joint Committee objected to Section 335.202(d) of proposed rulemaking of the Department of Children and Family Services because, contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the rule does not contain adequate standards for determining when waiver of an approval standard will be granted; the resultant vagueness in effect allowing the Department to amend its rules on approval standards without resort to the rulemaking procedures required by Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

COMMERCE AND COMMUNITY AFFAIRS, DEPARTMENT OF

Local Tourism and Convention Bureau Program (14 Ill. Adm. Code 550.20, 550.40, 550.50, 550.60)

Proposal Originally Published in Illinois Register, December 14, 1984 (8 Ill. Reg. 23940). This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4870.)

Objection 1: The Joint Committee objected to Sections 550.20, 550.40 and 550.60 of the rules of the Department of Commerce and Community Affairs entitled "Local Tourism and Convention Bureau Program" because the Department lacks the statutory authority to impose certification requirements on local tourism and convention bureaus and to require local tourism and convention bureaus to have a least one full-time staff person and to provide dollar-for-dollar matching funds.

Objection 2: The Joint Committee objected to Sections 550.40, 550.50, and 550.60 of the rules of the Department of Commerce and Community Affairs entitled "Local Tourism and Convention Bureau Program" because the Department lacks statutory authority to impose program, administrative, and application requirements on local tourism and convention bureaus which are eligible to receive grants from the Convention and Local Tourism Bureau Account.

Objection 3: The Joint Committee objected to the rules of the Department of Commerce and Community Affairs entitled "Local Tourism and Convention Bureau Program" because the Department has been implementing the rules prior to their having been adopted in accordance with the Illinois Administrative Procedure Act.

Recommendation 1: The Joint Committee suggested that the Department of Commerce and Community Affairs seek legislation to amend Section 46.6a of the Civil Administrative Code (Ill. Rev. Stat. 1984 Supp., ch. 127, par. 46.6a) to grant the Department the specific statutory authority to require local tourism and convention bureaus to be certified, to have a least one full-time staff person and to provide dollar-for-dollar matching funds.

Recommendation 2: The Joint Committee suggested to the Department of Commerce and Community Affairs that the Department cease and desist its practice of requiring that local tourism and convention bureaus applying for grant awards submit the detailed information required on its grant application form relative to the bureaus' proposals for expenditure of grant funds.

Agency Response to Objections: Refusal to Modify or Withdraw, published April 12, 1985 (9 Ill. Reg. 4860). Response received by the Joint Committee April 2, 1985.

Agency Response to Recommendations: Agree. Response received by the Joint Committee April 2, 1985.

Joint Committee Response: May 14, 1985, 1 recommendation to monitor rulemaking and 4 recommendations to monitor legislation.

Published as Adopted: April 12, 1985 (9 Ill. Reg. 4775), effective April 4, 1985.

Service Delivery System and State Responsibilities (56 Ill. Adm. Code 2600.40(e)(1))

Proposal Originally Published in Illinois Register, November 16, 1984 (8 Ill. Reg. 22392). This Joint Committee action at the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4882).

Objection: The Joint Committee objected to Section 2600.40(e)(1) of the Department of Commerce and Community Affairs' rules entitled "Certification of Private Industry Councils" because the Department's definition of "experience in administering job training programs" conflicts with Section 102 of the Job Training Partnership Act.

Agency Response: Agreement to Modify, published April 20, 1985 (9 Ill. Reg. 5752). Response received by the Joint Committee April 15, 1985.

Joint Committee Response: May 14, 1985, no further action.

Published as Adopted: April 26, 1985 (9 Ill. Reg. 5591), effective April 17, 1985.

Technology Commercialization Grant-In-Aid Program (14 Ill. Adm. Code 540.50)

Proposal Originally Published in Illinois Register, October 26, 1984 (8 Ill. Reg. 21021). This Joint Committee action from the meeting of February 21, 1985 was published in the Illinois Register, March 8, 1985 (9 Ill. Reg. 2987)

Objection: The Joint Committee objected to Section 540.50 of the Department of Commerce and Community Affairs' proposed rules concerning Technology Commercialization Grant-In-Aid Program because, contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, this section does not clearly and precisely set forth the standards used by the Department to rank Requests for Proposals submitted by applicants under the Technology Commercialization Grant-In-Aid Program.

Agency Response: Refusal (in part) and Modification (in part), published March 29, 1985 (9 Ill. Reg. 4171). Response received by the Joint Committee March 21, 1985.

Joint Committee Response: April 16, 1985, no further action.

Published as Adopted: February 15, 1985 (9 Ill. Reg. 2256), effective February 6, 1985.

Technology Commercialization Grant-In-Aid Program (14 Ill. Adm. Code 540)

Proposal Originally Published in the Illinois Register, May 10, 1985 (9 Ill. Reg. 6545). This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14036).

Recommendation: The Joint Committee suggested to the Illinois Department of Commerce and Community Affairs that it seek legislation amending Section 46.19a of the Civil Administrative Code (Ill. Rev. Stat. 1984 Supp., ch. 127, par. 46.19a) to grant it specific statutory authority to require recipients of grants under the Technology Commercialization Grant-In-Aid Program to hold the State of Illinois harmless from any and all claims and actions based upon or arising out of any services provided by themselves or their associates and employers.

Agency Response: Failure to respond.

Joint Committee Response: Pending.

Published as Adopted: October 18, 1985 (9 Ill. Reg. 15829), effective October 9, 1985.

COMMERCE COMMISSION, ILLINOIS

Elimination of Nonessential Uses of Natural Gas (G.O. 202) (38 Ill. Adm. Code 515)

Proposal Originally Published in the Illinois Register, April 19, 1985 (9 Ill. Reg. 5007). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20958).

Objection: The Joint Committee objected to Section 515.45 of the rules of the Illinois Commerce Commission entitled "Elimination of Nonessential Uses of Natural Gas" (83 Ill. Adm. Code 515) because the Commission lacks the statutory authority under Section 49a of "An Act concerning public utilities" to prohibit the use of gas for the purpose of outdoor lighting.

Recommendation: The Joint Committee suggested to the Commerce Commission that, if the Commission believes it should have the authority to prohibit the use of gas for outdoor lighting, the Commission seek legislation granting it such authority.

Agency Response to Objection: Pending.

Agency Response to Recommendation: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Charitable Contributions (83 Ill. Adm. Code 325)

Proposal Originally Published in the Illinois Register, September 28, 1984 (8 Ill. Reg. 17943). This Joint Committee action from the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12397).

Objection 1: The Joint Committee objected to Section 325.20(a) of the rules of the Illinois Commerce Commission entitled "Charitable Contributions" because the rule presumes that one-half of every charitable contribution is not reasonable in amount, and thus may not be treated as an operating expense, in violation of Section 41 of "An Act concerning public utilities."

Objection 2: The Joint Committee objected to Section 325.20(a) of the rules of the Illinois Commerce Commission entitled "Charitable Contributions" because the rule is not simple and clear, in violation of Section 220.900(b)(3) of the Operational Rules of the Joint Committee.

Objection 3: The Joint Committee objected to Section 325.20(b) of the rules of the Illinois Commerce Commission entitled "Charitable Contributions"

because the rule is vague and violates Section 4.02 of the Illinois Administrative Procedure Act in that it fails to provide standards for determining when contributions directed to charitable agencies not serving Illinois may be considered as utility operating expenses.

Agency Response: Refusal to Modify or Withdraw (Objection 1), Agreement to Modify (Objections 2 and 3), published October 4, 1985 (9 Ill. Reg. 15065). Response received by the Joint Committee September 18, 1985.

Joint Committee Response: October 16, 1985, Joint Committee draft legislation (Objection 1), no further action (Objections 2 and 3).

Published as Adopted: October 4, 1985 (9 Ill. Reg. 14999), effective November 1, 1985.

Rules of Practice (89 Ill. Adm. Code 200.710(a))

Proposal Originally Published in Illinois Register, April 13, 1984 (8 Ill. Reg. 4728). This Joint Committee action at the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4887).

Objection: The Joint Committee objected to Section 200.710(a) of the Illinois Commerce Commission's rules entitled "Rules of Practice" because the Commission lacks the statutory authority to exempt employees who are not witnesses from the requirements of Section 15 of the Illinois Administrative Procedure Act.

Recommendation 1: The Joint Committee suggested that the Illinois Commerce Commission seek legislation which would clarify the applicability of Section 15 of the Illinois Administrative Procedure Act to Commission employees who are not staff witnesses in Commission proceedings.

Recommendation 2: The Joint Committee suggested that the Illinois Commerce Commission seek legislation which would clarify the applicability of Section 15 of the Illinois Administrative Procedure Act to Commission proceedings.

Agency Response to Objection: Refusal to Modify or Withdraw, published April 20, 1985 (9 Ill. Reg. 5753). Response received by the Joint Committee April 18, 1985.

Agency Response to Recommendations: Failure to Respond.

Joint Committee Response: May 14, 1985, no further action.

Published as Adopted: April 26, 1985 (9 Ill. Reg. 5627), effective April 15, 1985.

Standards of Service for Electric Utilities (General Order 161) (83 Ill. Adm. Code 410)

Proposal Originally Published in the Illinois Register, April 19, 1985 (9 Ill. Reg. 5017). This Joint Committee action from the meeting of December 11,

1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20964).

Objection: The Joint Committee objected to Section 410.350(f) of the Illinois Commerce Commission's rules entitled "Standards of Service for Electric Utilities" (83 Ill. Adm. Code 410.350) because contrary to Section 4.02 of the Illinois Administrative Procedure Act, the rule does not include the standards to be used by the Commission for reviewing the criteria to be applied by utilities for determining which small commercial and/or industrial customers shall be included within the classification called for by this Section.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Standards of Service for Gas Utilities (General Order 159) (83 Ill. Adm. Code 500)

Proposal Originally Published in the Illinois Register, April 19, 1985 (9 Ill. Reg. 5023). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20966).

Objection: The Joint Committee objected to Section 500.330(f) of the Illinois Commerce Commission's rules entitled "Standards of Service for Gas Utilities" (83 Ill. Adm. Code 500.330) because contrary to Section 4.02 of the Illinois Administrative Procedure Act, the rule does not include the standards to be used by the Commission for reviewing the criteria to be applied by utilities for determining which small commercial and/or industrial customers shall be included within the classification called for by this Section.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

COMMUNITY COLLEGE BOARD, ILLINOIS

Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501)

Proposal Originally Published in Illinois Register, October 5, 1984 (8 Ill. Reg. 18939). This Joint Committee action from the meeting of January 17, 1985 was published in the Illinois Register, February 1, 1985 (9 Ill. Reg. 1461).

Objection: The Joint Committee objected to Part 1501 of the rules of the Illinois Community College Board because they are incomplete since they do not specify the information which the Board requires of districts when they

apply for approval of new colleges and branches and when they apply to extend courses into non-district territory.

Recommendation: The Joint Committee suggested that the Board promulgate rules to specify the information which the Board requires of districts when they apply for approval of new colleges and branches and when they apply to extend courses into non-district territory.

Agency Response to Objection: Refusal to Modify or Withdraw, published April 20, 1985 (9 Ill. Reg. 2552). Response received by the Joint Committee February 4, 1985.

Agency Response to Recommendation: Agree. Response received by the Joint Committee February 4, 1985.

Joint Committee Response: March 19, 1985, recommendation to draft legislation.

Published as Adopted: Withdrawn, March 29, 1985 (9 Ill. Reg. 4173).

Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501.201 and 1501.202)

Proposal Originally Published in Illinois Register, September 6, 1985 (9 Ill. Reg. 13587). This Joint Committee action at the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18561).

Objection: The Joint Committee objected to Sections 1501.201 and 1501.202 of the rules of the Illinois Community College Board entitled "Administration of the Illinois Public Community College Act" (23 Ill. Adm. Code 1501) because the rules do not include the standards to be used by the Board in determining whether a college is in substantial compliance with Board standards, contrary to Section 4.02 of the Illinois Administrative Procedure Act.

Recommendation: The Joint Committee suggested that the Board adopt within one year rules establishing the standards used by the Board to determine whether a college is in substantial compliance with Board standards.

Agency Response to Objection: Pending.

Agency Response to Recommendation: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501.514(i))

Proposal Originally Published in Illinois Register, November 30, 1984, (8 Ill. Reg. 23110). This Joint Committee action from the meeting of February 21, 1985 was published in the Illinois Register, March 8, 1985 (9 Ill. Reg. 2993).

Objection: The Joint Committee objected to Section 1501.514(i) of the Illinois Community College Board's rules entitled "Administration of the Illinois Public Community College Act" because contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the rule does not contain clear and precise standards so as to fully inform those affected of the way in which the Board will determine whether Business Assistance Grants will be awarded.

Recommendation: The Joint Committee suggested to the Illinois Community College Board that, prior to the adoption of 23 Ill. Adm. Code 1501.515, it submit to the Joint Committee for review and examination a copy of the form required by Section 1501.515(h) of the rules, to be used by colleges in filing financial reports.

Agency Response to Objection: Refusal to Modify or Withdraw, published May 17, 1985 (9 Ill. Reg. 7228). Refusal to Modify received by the Joint Committee May 2, 1985. Withdrawal published March 29, 1985 (9 Ill. Reg. 4173).

Agency Response to Recommendation: Agree. Response received by the Joint Committee March 6, 1985.

Joint Committee Response: April 16, 1985, objection to existing rule (Objection) published May 3, 1985 (9 Ill. Reg. 6447); and monitor the form (Recommendation).

Published as Adopted: June 21, 1985 (9 Ill. Reg. 9470).

Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501.604(c) and 1501.507(c))

Proposal Originally Published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8025). This Joint Committee action from the August 28, 1985 meeting was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14038).

Objection 1: The Joint Committee objected to Section 1501.604 of the rules of the Illinois Community College Board governing the "Administration of the Illinois Public Community College Act" because the Board lacks the statutory authority to approve locally funded capital projects for which no State funding is requested.

Objection 2: The Joint Committee objected to Section 1501.507(c) of the rules of the Illinois Community College Board entitled "Administration of the Illinois Public Community College Act" (23 Ill. Adm. Code 1501) because the rules do not contain the standards used by the Board to determine whether a course may be repeated for credit hour grants, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published October 4, 1985 (9 Ill. Reg. 15068). Response received by the Joint Committee October 17, 1985.

Joint Committee Response: Pending.

Published as Adopted: November 1, 1985 (9 Ill. Reg. 16813), effective October 21, 1985.

CONSERVATION, DEPARTMENT OF

Cock Pheasant, Hungarian Partridge, Bobwhite Quail, Rabbit and Crow Hunting Regulations (17 Ill. Adm. Code 530.80 and 530.100)

Proposal Originally Published in the Illinois Register, June 28, 1985 (9 Ill. Reg. 9715). This Joint Committee action from the meeting of September 19, 1985 was published in the Illinois Register, October 4, 1985 (9 Ill. Reg. 15081).

Objection: The Joint Committee objected to Sections 530.80 and 530.100 of the Department of Conservation's rules entitled "Cock Pheasant, Hungarian Partridge, Bobwhite Quail, Rabbit and Crow," (17 Ill. Adm. Code 530) because the Department lacks the statutory authority to retain a hunter's hunting license or Firearm Owner's Identification Card while he or she is hunting on a Department-owned or managed site.

Recommendation: The Joint Committee suggested to the Department of Conservation that it seek legislation to allow it to retain hunting licenses of persons who wish to enter Department-managed areas in order to participate in the controlled pheasant hunt, pursuant to Section 530.80, or the Illinois Youth Pheasant Hunt, pursuant to Section 530.100, and in order to retain the Firearm Owners Identification Card of those same persons who, under the law, are not required to obtain a hunting license.

Agency Response to Objection: Refusal to Modify or Withdraw, published October 18, 1985 (9 Ill. Reg. 15986). Response received by the Joint Committee October 23, 1985.

Agency Response to Recommendation: Disagree. Response received by the Joint Committee October 23, 1985.

Joint Committee Response: November 14, 1985, agency seek legislation (Objection); Joint Committee develop legislation (Recommendation).

Published as Adopted: October 18, 1985 (9 Ill. Reg. 15846), effective October 8, 1985.

Consignment of Licenses (17 Ill. Adm. Code 2520)

Proposal Originally Published in the Illinois Register, May 24, 1985 (9 Ill. Reg. 7321). This Joint Committee action from the meeting of August 28, 1985

was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14043).

Objection 1: The Joint Committee objected to the rules of the Department of Conservation entitled "Consignment of Licenses" (17 Ill. Adm. Code 2520) because the Department failed to comply with the regulatory flexibility requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 2520.30(a) of the Department of Conservation's rules entitled "Consignment of Licenses" because the Department lacks the necessary authority to require that funds received in payment for licenses be deposited to an identifiable bank account and that no other funds belonging to the vendor be deposited therein.

Recommendation 1: The Committee suggested that the Department seek legislation authorizing it to require that funds received in payment for licenses be deposited to an identifiable bank account and that no other funds belonging to the vendor be deposited therein.

Recommendation 2: The Joint Committee suggested to the Department of Conservation that it develop legislation to amend Section 5.22 of the Fish Code and Section 3.37 of the Wildlife Code such that each section is made to conform with Section 9(a) of Article VII of the Constitution of the State of Illinois.

Agency Response to Objections: Refusal to Modify or Withdraw (Objection 1), Withdrawal (Objection 2), published September 27, 1985 (9 Ill. Reg. 14736). Response received by the Joint Committee October 8, 1985.

Agency Response to Recommendations: Agree. Response received by the Joint Committee October 8, 1985.

Joint Committee Response: November 14, 1985, no further action (Objection 1), agency seek legislation (Objection 2), Joint Committee monitor agency legislation (Recommendations 1 and 2).

Published as Adopted: September 27, 1985 (9 Ill. Reg. 145626), effective September 17, 1985.

Designation of Restricted Waters in the State of Illinois (17 Ill. Adm. Code 2030)

Proposal Originally Published in Illinois Register, November 30, 1984 (8 Ill. Reg. 23396). This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4896).

Recommendation: The Joint Committee suggested to the Department of Conservation that it seek legislation to provide the Department with the authority to promulgate rules regarding the procedure it uses to designate restricted waters.

Agency Response: Agree. Response received by the Joint Committee April 3, 1985.

Joint Committee Response: May 14, 1985, recommendation to monitor agency legislation.

Published as Adopted: April 12, 1985 (9 Ill. Reg. 4789), effective April 2, 1985.

Field Trials on Private Lands (17 Ill. Adm. Code 930)

Proposal Originally Published in the Illinois Register, April 26, 1985 (9 Ill. Reg. 5511). This Joint Committee action from the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12408).

Recommendation: The Joint Committee suggested to the Department of Conservation that it seek to amend the Wildlife Code to allow the Department to waive the Illinois hunting license requirement for non-resident participants at field trials if they reside in a state that reciprocates by allowing Illinois residents to participate in field trials in that state without obtaining a hunting license for that state.

Agency Response: Agree. Response received by the Joint Committee November 18, 1985.

Joint Committee Response: Pending.

Published as Adopted: September 13, 1985 (9 Ill. Reg. 13951), effective September 4, 1985.

Fish Stocking, Importation, and/or Possession of Aquatic Life (17 Ill. Adm. Code 870)

Proposal Originally Published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12543). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20968).

Objection: The Joint Committee objected to Section 870.10(b) of the Department of Conservation's rules entitled "Fish Stocking, Importation and Possession of Aquatic Life" because, by making it unlawful to import, possess, transport, or ship certain species of fish without Departmental permission, the Department has exceeded the authority accorded it under Section 3.20 of the Fish Code.

Recommendation: The Joint Committee suggested to the Department of Conservation that, if the Department believes it should have the authority to regulate the transportation and possession of aquatic life, the Department should seek legislation granting it such authority.

Agency Response to Objection: Pending.

Agency Response to Recommendation: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Historic Preservation Grants-In-Aid (17 Ill. Adm. Code 310.60, 310.50(b), and 310.20)

Proposal Originally Published in Illinois Register, October 5, 1984 (8 Ill. Reg. 18643). This Joint Committee action from the meeting of February 21, 1985 was published in the Illinois Register, March 8, 1985 (9 Ill. Reg. 3001).

Objection 1: The Joint Committee objected to Section 310.60 of the rules of the Department of Conservation entitled "Historic Preservation Grants-In-Aid Program" because that section fails to set forth accurately the Department's policies relative to imposing sanctions upon those who do not comply with the program requirements.

Objection 2: The Joint Committee objected to Section 310.50(b) of the Department of Conservation's rules concerning the Historic Preservation Grants-In-Aid Program because the proposed rules fail to comply with the requirements for incorporation by reference under Section 6.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Section 310.20 of the Department of Conservation's proposed Historic Preservation Grants-In-Aid Program rules because the rules fail to include the standards that will be given priority for grant awards, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Recommendation 1: The Joint Committee suggested to the Illinois Department of Conservation that it petition the United States Department of the Interior to allow the Illinois Department to utilize the sanctions for non-compliance set forth in the Illinois Grant Funds Recovery Act in lieu of the federal sanctions (Ill. Rev. Stat. 1983, ch. 127, par. 2310 et seq). In addition, the Joint Committee directed staff to contact the President's Task Force on Regulatory Reform, chaired by Vice President Bush, to request the Task Force's assistance in resolving the matter.

Recommendation 2: The Joint Committee suggested that the Department of Conservation initiate rulemaking to amend Section 310.20 of the Department's rules concerning Historic Preservation Grants-In-Aid to include the Department's policies concerning application procedures and evaluation and prioritization of proposed historic preservation projects.

Agency Response to Objections: Refusal to Modify or Withdraw, published May 17, 1985 (9 Ill. Reg. 72291). Response received by the Joint Committee May 3, 1985.

Agency Response to Recommendations: Agree. Response received by the Joint Committee May 3, 1985.

Joint Committee Response: April 16, 1985, no further action.

Published as Adopted: May 17, 1985 (9 Ill. Reg. 7132), effective May 3, 1985.

EDUCATION, STATE BOARD OF

Cifted Education (23 Ill. Adm. Code 227.50 and 227.50(b)(9))

Proposal Originally Published in Illinois Register, July 13, 1984 (8 Ill. Reg. 11981). This Joint Committee action from the meeting of April 16, 1985 was published in the Illinois Register, May 3, 1985 (9 Ill. Reg. 6400).

Objection 1: The Joint Committee objected to Section 227.50 of the State Board of Education's rules entitled "Gifted Education" because the Board lacks the statutory authority to impose requirements for college credit, institute training, or experience upon professional personnel employed in gifted education programs receiving reimbursement funds from the State Board.

Objection 2: The Joint Committee objected to Section 227.50(b)(9) of the rules of the State Board of Education entitled "Gifted Education" because, contrary to Section 4.02 of the Illinois Administrative Procedure Act, the rule does not fully inform local education agencies (LEAs) of the standards by which dates for submission of applications and evaluation reports will be determined.

Recommendation 1: The Joint Committee suggested that the State Board of Education seek legislation to amend Section 14A of the School Code to authorize the Board to impose requirements upon teachers, supervisors, and administrators employed in gifted education programs.

Recommendation 2: The Joint Committee suggested that the Board promulgate rules to specify the information which the Board requires of local education agencies when they apply for approval of gifted education programs.

Agency Response to Objections: Refusal to Modify or Withdraw (1), Agreement to Modify (2), published June 28, 1985 (9 Ill. Reg. 10110). Response received by the Joint Committee June 13, 1985.

Agency Response to Recommendations: Agree. Response received by the Joint Committee June 13, 1985.

Joint Committee Response: July 25, 1985, request timetable.

Published as Adopted: June 28, 1985 (9 Ill. Reg. 9989), effective June 14, 1985.

ELECTIONS, STATE BOARD OF

Voting Accessibility for the Elderly and Handicapped (26 Ill. Adm. Code 209.50(f), 209.70(d))

Proposal Originally Published in Illinois Register, June 7, 1985 (9 Ill. Reg. 8357). This Joint Committee action at the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18568).

Objection 1: The Joint Committee objected to Section 209.50(f) of the State Board of Elections' rulemaking entitled "Voting Accessibility for the Elderly

and Handicapped" because the Board lacks the statutory authority to rescind a two-year exemption from accessibility requirements once granted pursuant to Sections 7-47.1(a) and 17-13(a) of the Election Code.

Objection 2: The Joint Committee objected to Section 209.70(d) of the State Board of Elections' rulemaking entitled "Voting Accessibility for the Elderly and Handicapped" because that provision violates Sections 7-47.1(b), 11-4.2(b) and 17-13(b) of the Election Code by permitting delivery of a ballot, on election day, without prior notice, to a handicapped voter who is unable to reach the polls.

Recommendation 1: The Joint Committee suggested that the State Board of Elections Board seek legislation to grant it the statutory authority to rescind an exemption from accessibility requirements within two years after the exemption is granted.

Recommendation 2: The Joint Committee suggested to the State Board of Elections that it seek legislation to provide that a handicapped voter unable to continue toward a polling place should be allowed to request delivery of a ballot at any time up through and including election day in those instances where an established polling place has been moved after notice of the polling place location has been published.

Agency Response to Objections: Pending.

Agency Response to Recommendations: Pending.

Joint Committee Response: Pending.

Published As Adopted: Pending.

Voting Systems (26 Ill. Adm. Code 204)

Proposal Originally Published in Illinois Register, June 29, 1984 (8 Ill. Reg. 9863). This Joint Committee action from the meeting of April 16, 1985 was published in the Illinois Register, May 3, 1985 (9 Ill. Reg. 6408).

Objection 1: The Joint Committee objected to the State Board of Elections' rulemaking entitled "Voting Systems" (26 Ill. Adm. Code 204) because the Board lacks statutory authority to approve, and to withdraw approval of, any "activities, materials, and equipment utilized in the preparation, delivery, casting, examination, tabulating and preservation of ballots, and in reporting results" as specified in the Section 204.20 definition of "Voting Systems."

Objection 2: The Joint Committee objected to Section 204.100(c) of the State Board of Elections' rules entitled "Voting Systems" (26 Ill. Adm. Code 204) because the Board lacks statutory authority to condition its final approval of a voting system on the filing by the applicant of a written agreement to file certain documents and computer programs with the Board.

Objection 3: The Joint Committee objected to Section 204.140 of the State Board of Elections' rulemaking entitled "Voting Systems" (26 Ill. Adm. Code 204) because the provision violates Section 4.02 of the Illinois Administrative

Procedure Act in that it fails to set forth the standards used by the State Board of Elections to determine whether to inspect, test and monitor an approved voting system.

Recommendation 1: The Joint Committee suggested that the Board of Elections develop and introduce appropriate legislation to grant it the authority to approve and to withdraw approval of "voting systems."

Recommendation 2: The Joint Committee suggested that the State Board of Elections develop and introduce legislation to grant it the authority to require written agreement by the applicant to file certain documents and computer programs with the Board.

Agency Response to Objections: Agreement to Modify, published July 12, 1985 (9 Ill. Reg. 11136). Response received by the Joint Committee July 2, 1985.

Agency Response to Recommendations: Agree. Response received by the Joint Committee July 2, 1985.

Joint Committee Response: August 28, 1985, no further action.

Published as Adopted: July 12, 1985 (9 Ill. Reg. 10733), effective July 1, 1985.

EMPLOYMENT SECURITY, DEPARTMENT OF

Recovery of Benefits (56 Ill. Adm. Code 2835.15 and 2835.Table A)

Proposal Originally Published in the Illinois Register, May 17, 1985 (9 Ill. Reg. 7100). This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14050).

Objection: The Joint Committee objected to Sections 2835.15 and 2835.Table A of the Department of Employment Security's rule entitled "Recovery of Benefits" because the rule provides for the indefinite recoupment of benefits non-fraudulently obtained, to the extent of 100% of weekly benefits, in violation of Section 900 of The Unemployment Insurance Act.

Agency Response: Agreement to Modify, published October 25, 1985 (9 Ill. Reg. 16357). Response received by the Joint Committee October 7, 1985.

Joint Committee Response: November 14, 1985, no further action.

Published as Adopted: October 25, 1985 (9 Ill. Reg. 16225), effective October 15, 1985.

Wages (56 Ill. Adm. Code 2730)

Proposal Originally Published in the Illinois Register June 7, 1985 (9 Ill. Reg. 8375). This Joint Committee action from the meeting of October 16, 1985 was published in the Illinois Register, November 1, 1985 (9 Ill. Reg. 17057).

Recommendation: The Joint Committee suggested to the Illinois Department of Employment Security that it seek legislation amending Section 234 of the Unemployment Insurance Act to require employers to notify each individual of his "duty" rather than "right" to report currently the amount of gratuities to the employer so as to be consistent with federal law regarding the reporting of gratuities (22 U.S.C. Section 3306, as amended by P.L. 98-369, 98 Stat. 1052).

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

ENVIRONMENTAL PROTECTION AGENCY

Design, Operation and Maintenance Criteria (35 Ill. Adm. Code 653)

Proposal Originally Published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3132). This Joint Committee action from the meeting of June 19, 1985 was published in the Illinois Register, July 5, 1985 (9 Ill. Reg. 10305).

Objection 1: The Joint Committee objected to the Environmental Protection Agency's rules entitled "Design, Operation and Maintenance Criteria" (35 Ill. Adm. Code 653) because the Environmental Protection Act does not give the Agency the authority to require that cross-connection control devices be inspected by a person approved by the Agency, nor does it give the Agency the authority to grant approval to persons to inspect cross-connection control devices.

Objection 2: The Joint Committee objected to Section 653.802(d)(1) of the Environmental Protection Agency's rules entitled "Design, Operation and Maintenance Criteria" (35 Ill. Adm. Code 653) because the rule fails to reflect the Agency's actual policy that it will not let individuals tested for approval as "Cross-Connection Control Device Inspectors" view their graded examinations.

Recommendation 1: The Joint Committee recommended to the Environmental Protection Agency that it make a recommendation to the Pollution Control Board, pursuant to Section 4(i) of the Environmental Protection Act, to adopt rules containing procedures to insure safe cross-connection control.

Recommendation 2: The Joint Committee recommended to the Environmental Protection Agency, that it promulgate hearing rules which will sufficiently describe the procedure it uses to suspend or revoke Cross-Connection Control Device Inspector Approval.

Agency Response to Objections: Refusal to Modify or Withdraw (Objection 1), Agreement to Modify (Objection 2), published September 27, 1985 (9 Ill. Reg. 14738). Response received by the Joint Committee September 13, 1985.

Agency Response to Recommendations: Disagree (Recommendation 1), Agree (Recommendation 2). Response received by the Joint Committee September 13, 1985.

Joint Committee Response: November 14, 1985, recommendation to draft legislation (Objection 1 and Recommendation 1). No further action (Objection 2 and Recommendation 2).

Published as Adopted: November 8, 1985 (9 Ill. Reg. 17367), effective October 23, 1985.

General Procedures for Stack Testing (35 Ill. Adm. Code 283)

Proposal Originally Published in the Illinois Register, September 14, 1984 (8 Ill. Reg. 16946). This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14054).

Objection: The Joint Committee objected to the Environmental Protection Agency's rules entitled "General Procedures for Stack Testing" (35 Ill. Adm. Code 283) because the Agency lacks the proper statutory authority to promulgate rules for procedures for monitoring contaminant discharges and the collection of samples.

Recommendation: The Joint Committee suggested to the Environmental Protection Agency that it propose rulemaking to the Pollution Control Board so that specific procedures for monitoring containment discharges and the collection of samples are promulgated through the Board as established in the Environmental Protection Act.

Agency Response to Objection: Refusal to Modify or Withdraw, published September 27, 1985 (9 Ill. Reg. 14739). Response received by the Joint Committee September 17, 1985.

Agency Response to Recommendation: Disagree. Response received by the Joint Committee September 17, 1985.

Joint Committee Response: October 16, 1985, 1 recommendation for Joint Committee legislation.

Published as Adopted: September 27, 1985 (9 Ill. Reg. 14633), effective September 13, 1985.

Policy for Granting Permission to Operate During Periods of Excess Emissions (35 Ill. Adm. Code 260)

Proposal Originally Published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3145). This Joint Committee action from the meeting of August 28, 1985

was published in the Illinois Register, September 20, 1985 (9 Ill. Reg. 14387 and 14390).

Objection: The Joint Committee objected to the Environmental Protection Agency's rules entitled "Policy for Granting Permission to Operate During Periods of Excess Emissions" (35 Ill. Adm. Code 260) because the Agency lacks the statutory authority to promulgate standards for granting permission to operate during periods of excess emissions.

Recommendation: The Joint Committee suggested to the Environmental Protection Agency that it propose rulemaking to the Pollution Control Board that would establish what the Agency considers the necessary standards for granting permission to operate during periods of excess emissions caused by malfunctions, breakdowns or startups.

Agency Response to Objection: Refusal to Modify or Withdraw, published November 22, 1985 (9 Ill. Reg. 18168). Response received by the Joint Committee September 17, 1985.

Agency Response to Recommendation: Disagree. Response received by the Joint Committee September 17, 1985.

Joint Committee Response: December 11, 1985, recommendation to draft legislation.

Published as Adopted: December 2, 1985 (9 Ill. Reg. 18489), effective November 15, 1985.

Procedures for Determining and Protecting Confidential Information (35 Ill. Adm. Code 161.202)

Proposal Originally Published in Illinois Register, June 7, 1985 (9 Ill. Reg. 11242). This Joint Committee action at the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18576).

Objection: The Joint Committee objected to Section 161.202 of the rules of the Environmental Protection Agency entitled "Procedures for Determining and Protecting Confidential Information" (35 Ill. Adm. Code 161.202) because that Section conflicts with Section 120.265 of the rules of the Pollution Control Board, the agency which, under Section 7.1(b) of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111½, Section 1007.1(b)), has the statutory responsibility for adopting regulations prescribing procedures to be used by the Agency in determining whether information constitutes a trade secret.

Recommendation: The Joint Committee suggested to the Environmental Protection Agency that it petition the Pollution Control Board by January 1, 1986, to amend Section 120.265 of its rules to provide for the protection of articles in the possession of the Agency which have not been determined to be trade secrets in compliance with the Board's existing rules.

Agency Response to Objection: Pending.

Agency Response to Recommendation: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Procedures for Measuring Emissions of Carbon Monoxide (35 Ill. Adm. Code 277)

Proposal Originally Published in the Illinois Register, September 14, 1984 (8 Ill. Reg. 16960). This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14062).

Objection: The Joint Committee objected to the Environmental Protection Agency's rules entitled "Procedures for Measuring Emissions of Carbon Monoxide from Stationary Sources" (35 Ill. Adm. Code 277) because the Agency lacks the statutory authority to promulgate procedures for monitoring contaminant discharges of sources of air pollution and the collection of samples.

Recommendation: The Joint Committee suggested to the Environmental Protection Agency that it propose rulemaking to the Pollution Control Board so that specific procedures for monitoring contaminant discharges and the collection of samples are promulgated through the Board as established in the Environmental Protection Act.

Agency Response to Objection: Refusal to Modify or Withdraw, published September 27, 1985 (9 Ill. Reg. 14740). Response received by the Joint Committee September 17, 1985.

Agency Response to Recommendation: Disagree. Response received by the Joint Committee September 17, 1985.

Joint Committee Response: October 16, 1985, recommendation to draft legislation.

Published as Adopted: September 27, 1985 (9 Ill. Reg. 14653), effective September 13, 1985.

Procedures for Measuring Emissions of Particulate Matter from Stationary Sources (35 Ill. Adm. Code 263)

Proposal Originally Published in the Illinois Register, September 14, 1984 (8 Ill. Reg. 16966). This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14070).

Objection 1: The Joint Committee objected to the Environmental Protection Agency's rules entitled "Procedures for Measuring Particulate Matter from Stationary Sources" (35 Ill. Adm. 263) because the Agency lacks the

statutory authority to prescribe procedures for monitoring contaminant discharges and collection of samples.

Objection 2: The Joint Committee objected to the Environmental Protection Agency's rules entitled, "Procedures for Measuring Emissions of Particulate Matter from Stationary Sources" (35 Ill. Adm. Code 263) because the Agency made a substantive change to the rulemaking after publication in the Illinois Register, not in response to public comment, thus circumventing the public notice and comment provisions of Section 5.01 of the Illinois Administrative Procedure Act.

Recommendation: The Joint Committee suggested to the Environmental Protection Agency that it propose rulemaking to the Pollution Control Board so that specific procedures for monitoring contaminant discharges and the collection of samples are promulgated through the Board as established in the Environmental Protection Act.

Agency Response to Objections: Refusal to Modify or Withdraw, published September 27, 1985 (9 Ill. Reg. 14741). Response received by the Joint Committee September 17, 1985.

Agency Response to Recommendation: Disagree. Response received by the Joint Committee September 17, 1985.

Joint Committee Response: October 16, 1985, recommendation to draft legislation.

Published as Adopted: September 27, 1985 (9 Ill. Reg. 14660), effective September 13, 1985.

FARM DEVELOPMENT AUTHORITY, ILLINOIS

Rules of the Illinois Farm Development Authority (8 Ill. Adm. Code 1400)

Proposal Originally Published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8096). This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14080).

Recommendation: The Joint Committee suggested to the Illinois Farm Development Authority that it seek legislation to amend the Emergency Farm Credit Allocation Act (P.A. 84-1) to clarify the manner in which the Authority may determine, from the previous year's federal income tax returns, whether an applicant for a payment adjustment, pursuant to the Operating Interest Adjustment Loan Program, has demonstrated a positive cash flow where depreciation and net income do not exceed 25% of gross income.

Agency Response: Failure to Respond.

Joint Committee Response: Pending.

Published as Adopted: October 11, 1985 (9 Ill. Reg. 15493), effective October 1, 1985.

FINANCIAL INSTITUTIONS, DEPARTMENT OF

Illinois Credit Union Act (38 Ill. Adm. Code 190)

Proposal Originally Published in the Illinois Register, February 1, 1985 (9 Ill. Reg. 1219). This Joint Committee action from the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12414).

Recommendation: The Joint Committee suggested to the Department of Financial Institutions that it draft and introduce legislation explicitly permitting the Department to require credit unions to provide fidelity bond and insurance coverage for the unlawful acts of third persons and credit union officials in addition to officers and employees of the credit union having custody of or handling funds.

Agency Response: Agree. Response received by the Joint Committee October 24, 1985.

Joint Committee Response: November 14, 1985, no further action.

Published as Adopted: October 25, 1985 (9 Ill. Reg. 16231), effective October 10, 1985.

HUMAN RIGHTS COMMISSION

Joint Rules of the Department of Human Rights and the Human Rights Commission: Rules on Sex Discrimination in Employment (56 Ill. Adm. Code 5210.40, 5210.50, 5210.70, 5210.70(b)(4), 5210.100 and 5210.110(a))

Proposal Originally Published in the Illinois Register, November 16, 1984 (8 Ill. Reg. 22472). This Joint Committee action from the meeting of October 16, 1985 was published in the Illinois Register, November 1, 1985 (9 Ill. Reg. 17059).

Objection 1: The Joint Committee objected to Section 5210.40 of the Department of Human Rights' and Human Rights Commission's "Rules on Sex Discrimination in Employment" because the rule does not state the policy of the Department and Commission in a simple and clear manner, in violation of Section 220.900(b)(3) of the Operational Rules of the Joint Committee.

Objection 2: The Joint Committee objected to Section 5210.50 of the Department of Human Rights' and the Human Rights Commission's "Rules on Sex Discrimination in Employment" because the rule fails to include the standards used by the Department and Commission in determining what constitutes "substantially similar" or "substantially the same" work, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Section 5210.70 of the "Rules on Sex Discrimination in Employment" of the Department of Human Rights and the

Human Rights Commission because contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the rule fails to include the standards used by the Department and Commission in determining what constitutes a "bona fide occupational qualification" or the standards used in determining when a bona fide occupational qualification is "necessary for safe and efficient job performance."

Objection 4: The Joint Committee objected to Section 5210.70(b)(4) of the "Rules on Sex Discrimination in Employment" of the Department of Human Rights and the Human Rights Commission because the rule fails to include the standards used by the Department and Commission in determining what constitutes a "clearly unreasonable expense," in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 5: The Joint Committee objected to Section 5210.100 of the "Rules on Sex Discrimination in Employment" of the Department of Human Rights and Human Rights Commission which prescribes payments by employers for employee's memberships in private clubs in certain instances because the term "overall professional status" as used in the rule is vague and ill-defined and results in that portion of the rule being vague and susceptible to inconsistent interpretations and applications.

Objection 6: The Joint Committee objected to Section 5210.110(a) of the "Rules on Sex Discrimination in Employment" of the Department of Human Rights and the Human Rights Commission because the rule fails to include the standards by which the Department and Commission will determine when a pregnant woman is "unable" to be trained for or to perform in the job in question, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published December 2, 1985 (9 Ill. Reg. 18553). Response received by the Joint Committee November 14, 1985.

Joint Committee Response: December 11, 1985, no further action.

Published as Adopted: December 2, 1985 (9 Ill. Reg. 18507), effective November 14, 1985.

Procedural Rules (56 Ill. Adm. Code 5300)

Proposal Originally Published in Illinois Register, November 9, 1984 (8 Ill. Reg. 21969). This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4901).

Objection 1: The Joint Committee objected to the rules of the Human Rights Commission entitled "Procedural Rules" (56 Ill. Adm. Code 5300) because the Commission failed to comply with the regulatory flexibility requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 5300.835(b) of the Human Rights Commission's rules entitled "Procedural Rules" (56 Ill. Adm. Code 5300.835(b)) because the rule does not include the standards used by

the Chairperson of the Commission in determining whether extensions of filing deadlines will be granted, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published May 3, 1985 (9 Ill. Reg. 6341). Response received by the Joint Committee June 20, 1985.

Joint Committee Response: July 25, 1985, no further action.

Published as Adopted: May 3, 1985 (9 Ill. Reg. 6207), effective April 24, 1985.

HUMAN RIGHTS, DEPARTMENT OF

Joint Rules of the Department of Human Rights and the Human Rights Commission: Rules on Sex Discrimination in Employment (56 Ill. Adm. Code 5210.40, 5210.50, 5210.70, 5210.70(b)(4), 5210.100 and 5210.110(a))

Proposal Originally Published in the Illinois Register, November 16, 1984 (8 Ill. Reg. 22483). This Joint Committee action from the meeting of October 16, 1985 was published in the Illinois Register, November 1, 1985 (9 Ill. Reg. 17070).

Objection 1: The Joint Committee objected to Section 5210.40 of the Department of Human Rights' and Human Rights Commission's "Rules on Sex Discrimination in Employment" because the rule does not state the policy of the Department and Commission in a simple and clear manner, in violation of Section 220.900(b)(3) of the Operational Rules of the Joint Committee.

Objection 2: The Joint Committee objected to Section 5210.50 of the Department of Human Rights' and the Human Rights Commission's "Rules on Sex Discrimination in Employment" because the rule fails to include the standards used by the Department and Commission in determining what constitutes "substantially similar" or "substantially the same" work, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Section 5210.70 of the "Rules on Sex Discrimination in Employment" of the Department of Human Rights and the Human Rights Commission because contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the rule fails to include the standards used by the Department and Commission in determining what constitutes a "bona fide occupational qualification" or the standards used in determining when a bona fide occupational qualification is "necessary for safe and efficient job performance."

Objection 4: The Joint Committee objected to Section 5210.70(b)(4) of the "Rules on Sex Discrimination in Employment" of the Department of Human Rights and the Human Rights Commission because the rule fails to include the standards used by the Department and Commission in determining what constitutes a "clearly unreasonable expense," in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 5: The Joint Committee objected to Section 5210.100 of the "Rules on Sex Discrimination in Employment" of the Department of Human Rights and Human Rights Commission which prescribes payments by employers for employee's memberships in private clubs in certain instances because the term "overall professional status" as used in the rule is vague and ill-defined and results in that portion of the rule being vague and susceptible to inconsistent interpretations and applications.

Objection 6: The Joint Committee objected to Section 5210.110(a) of the "Rules on Sex Discrimination in Employment" of the Department of Human Rights and the Human Rights Commission because the rule fails to include the standards by which the Department and Commission will determine when a pregnant woman is "unable" to be trained for or to perform in the job in question, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published December 2, 1985 (9 Ill. Reg. 18553). Response received by the Joint Committee November 14, 1985.

Joint Committee Response: December 11, 1985, no further action.

Published as Adopted: December 2, 1985 (9 Ill. Reg. 18507), effective November 14, 1985.

INDUSTRIAL COMMISSION

Pre-Arbitration (50 Ill. Adm. Code 7020)

Proposal Originally Published in the Illinois Register, May 3, 1985 (9 Ill. Reg. 5934). This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14083).

Objection: The Joint Committee objected to Section 7020.80(b)(2)(A)(iii) of the rules of the Illinois Industrial Commission entitled "Pre Arbitration" (50 Ill. Adm. Code 7020.80(b)(2)(a)(iii) because the Commission does not have the statutory authority to allow the amendment of Section 19(b-1) Petitions.

Recommendation: The Joint Committee suggested to the Illinois Industrial Commission that it seek legislation amending the Workers' Compensation Act (Ill. Rev. Stat. 1963, ch. 48, par. 138 et seq.) to allow for the amendment of Section 19(b-1) Petitions.

Agency Response to Objection: Refusal to Modify or Withdraw, published October 25, 1985 (9 Ill. Reg. 16358). Response received by the Joint Committee October 9, 1985.

Agency Response to Recommendation: Disagree. Response received by the Joint Committee October 16, 1985.

Joint Committee Response: October 16, 1985, 2 recommendations to draft legislation.

Published as Adopted: October 25, 1985 (9 Ill. Reg. 16238), effective October 15, 1985.

INSURANCE, DEPARTMENT OF

Accident and Health Risk Ratio Notice (50 Ill. Adm. Code 938.50 and 938.60)

Proposal Originally Published in the Illinois Register, February 15, 1985 (9 Ill. Reg. 1996). This Joint Committee action from the meeting of June 19, 1985 was published in the Illinois Register, July 5, 1985 (9 Ill. Reg. 10314 and 10318).

Objection: The Joint Committee objected to Sections 938.50 and 938.60 of the Department of Insurance's rulemaking entitled "Accident and Health Risk Ratio Notice" because the Department lacks statutory authority to permit insurance companies to sell insurance, without notice to the Director, after a specified percentage increase in premium volume has been achieved.

Recommendation 1: The Joint Committee suggested to the Department of Insurance that it seek legislation amending Section 144.2 of the Illinois Insurance Code to show that companies may wait for quarterly financial data to make the determination that notice based on annualized premium volume figures is required.

Recommendation 2: The Joint Committee suggested to the Department of Insurance that it seek legislation amending Section 144.2 of the Illinois Insurance Code to clarify the fact that the Department is to require use of quarterly premium volume "on an annualized basis" to determine whether a company must make further calculations, and possibly notify the Department of premium volume growth.

Agency Response to Objection: Refusal to Modify or Withdraw, not published. Response received by the Joint Committee September 13, 1985.

Agency Response to Recommendations: Agree. Response received by the Joint Committee September 13, 1985.

Joint Committee Response: October 16, 1985, recommendation that agency develop legislation (Objection); no further action (Recommendation).

Published as Adopted: Pending.

Licensed Persons In Military Service (50 Ill. Adm. Code 3110)

Proposal Originally Published in Illinois Register, September 28, 1984 (8 Ill. Reg. 17962). This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4906).

Recommendation: The Joint Committee suggested that the Department of Insurance draft and introduce legislation to amend the Illinois Insurance Code to authorize the Department to waive license renewal fees for Insurance Producers in the military service.

Agency Response: Agree. Response received by the Joint Committee April 8, 1985.

Joint Committee Response: May 14, 1985, recommendation to monitor legislation.

Published as Adopted: April 19, 1985 (9 Ill. Reg. 5332), effective April 8, 1985.

LABOR, DEPARTMENT OF

Toxic Substances Disclosure to Employees (56 Ill. Adm. Code 205)

Proposal Originally Published in Illinois Register, August 30, 1985 (9 Ill. Reg. 13242). This Joint Committee action at the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18582).

Objection: The Joint Committee objected to the hearing procedures followed by the Department of Labor in its proposed revisions to the List of Toxic Substances because the Department has violated the procedures set forth in Section 5(c) of the Toxic Substances Disclosure to Employees Act.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

LABOR RELATIONS BOARD, ILLINOIS EDUCATIONAL

Hearing Procedures (80 Ill. Adm. Code 1105.40 and 1105.150)

Proposal Originally Published in Illinois Register, January 18, 1985 (9 Ill. Reg. 603). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8201).

Objection: The Joint Committee objected to Sections 1105.40 and 1105.150 of the rules of the Illinois Educational Labor Relations Board entitled "Hearing Procedures" because those rules permit the unauthorized practice of law, in violation of "An Act to revise the laws in relation to attorneys and counselors."

Recommendation: The Joint Committee suggested to the Illinois Educational Labor Relations Board that it seek legislation to allow union members and school board members to represent their union and school board, respectively, in Board proceedings.

Agency Response to Objection: Refusal to Modify or Withdraw, published June 21, 1985 (9 Ill. Reg. 9583). Response received by the Joint Committee June 6, 1985.

Agency Response to Recommendation: Agree. Response received by the Joint Committee June 6, 1985.

Joint Committee Response: July 25, 1985, recommendation to monitor agency's progress in drafting and introducing legislation.

Published as Adopted: June 21, 1985 (9 Ill. Reg. 9491), effective June 11, 1985.

MINES AND MINERALS, DEPARTMENT OF

Permanent Program Performance Standards - Surface Mining Operations (62 Ill. Adm. Code 1816.190)

Proposal Originally Published in Illinois Register, September 7, 1984 (8 Ill. Reg. 16220). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8207).

Objection: The Joint Committee objected to the Department of Mines and Minerals' amendment to 62 Ill. Adm. Code 1816.190 because the Department, by stating in the first notice that comments would only be received by the Department for 14 days, misinformed the public of the actual amount of time in which comments would be received on this rulemaking in violation of Section 5.01(a) of the Illinois Administrative Procedure Act and Section 9.01(d) of the Illinois Surface Coal Mining Land Conservation Reclamation Act.

Agency Response: Refusal to Modify or Withdraw, published August 2, 1985 (9 Ill. Reg. 12026). Response received by the Joint Committee August 15, 1985.

Joint Committee Response: August 28, 1985, no further action.

Published as Adopted: August 30, 1985 (9 Ill. Reg. 13310), effective October 10, 1985.

Permanent Program Performance Standards - Underground Mining Operations (62 Ill. Adm. Code 1817.65)

Proposal Originally Published in Illinois Register, September 7, 1984 (8 Ill. Reg. 16225). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8210).

Objection: The Joint Committee objected to the Department of Mines and Minerals' amendment to 62 Ill. Adm. Code 1817.65 because the Department, by stating in the first notice that comments would only be received by the Department for 14 days, misinformed the public of the actual amount of time in which comments would be received on this rulemaking in violation of

Section 5.01(a) of the Illinois Administrative Procedure Act and Section 9.01(d) of the Illinois Surface Coal Mining Land Conservation Reclamation Act.

Agency Response: Refusal to Modify or Withdraw, published August 2, 1985 (9 Ill. Reg. 12028). Response received by the Joint Committee August 15, 1985.

Joint Committee Response: August 28, 1985, no further action.

Published as Adopted: August 30, 1985 (9 Ill. Reg. 13315), effective October 10, 1985.

Requirements for Permits for Special Categories of Mining (62 Ill. Adm. Code 1785.17(a))

Proposal Originally Published in Illinois Register, September 7, 1984 (8 Ill. Reg. 16234). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8213).

Objection 1: The Joint Committee objected to the Department of Mines and Minerals' amendment to 62 Ill. Adm. Code 1785.17 because the Department, by stating in the first notice that comments would only be received by the Department for 14 days, misinformed the public of the actual amount of time in which comments would be received on this rulemaking in violation of Section 5.01(a) of the Illinois Administrative Procedure Act and Section 9.01(d) of the Illinois Surface Coal Mining Land Conservation Reclamation Act.

Objection 2: The Joint Committee objected to Section 1785.17(a) of the Special Prime Farmland Permit and Reclamation Rules of the Department of Mines and Minerals because, the rule will be afforded retroactive effect, in violation of Section 9.01(h) of the Surface Coal Mining Land Conservation and Reclamation Act and Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published August 2, 1985 (9 Ill. Reg. 13324). Response received by the Joint Committee July 19, 1985.

Joint Committee Response: August 28, 1985, no further action.

Published as Adopted: August 30, 1985 (9 Ill. Reg. 13324), effective October 10, 1985.

State Enforcement (62 Ill. Adm. Code 1843.12)

Proposal Originally Published in Illinois Register, September 7, 1984 (8 Ill. Reg. 16244). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8219).

Objection: The Joint Committee objected to the Department of Mines and Minerals' amendment to 62 Ill. Adm. Code 1843.12, "State Enforcement" because the Department, by stating in the first notice that comments would

only be received by the Department for 14 days, misinformed the public of the actual amount of time in which comments would be received on this rulemaking in violation of Section 5.01(a) of the Illinois Administrative Procedure Act and Section 9.01(d) of the Illinois Surface Coal Mining Land Conservation Reclamation Act.

Agency Response: Refusal to Modify or Withdraw, published August 2, 1985 (9 Ill. Reg. 12033). Response received by the Joint Committee July 19, 1985.

Joint Committee Response: August 28, 1985, no further action.

Published as Adopted: August 30, 1985 (9 Ill. Reg. 13334), effective October 10, 1985.

Training, Examination and Certification of Blasters (62 Ill. Adm. Code 1850)

Proposal Originally Published in the Illinois Register, February 15, 1985 (9 Ill. Reg. 2008). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20972).

Objection 1: The Joint Committee objected to the proposed amendment in Section 1850.15(d) of the Department of Mines and Minerals' rules entitled "Training, Examination and Certification of Blasters" (62 Ill. Adm. Code 1850), because the Department has failed to provide proper standards for its action in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 1850.16(b)(1) of the Department of Mines and Minerals' rules entitled "Training, Examination and Certification of Blasters" (62 Ill. Adm. Code 1850) because contrary to Section 4.02 of the Illinois Administrative Procedure Act, the rule does not include the standards to be used by the Department in determining when to issue a notice of infraction.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

NUCLEAR SAFETY, DEPARTMENT OF

Licensing Persons in the Practice of Radiation Technology (32 Ill. Adm. Code 401.100(d), and 401.110(d))

Proposal Originally Published in Illinois Register, November 9, 1984 (8 Ill. Reg. 21998). This Joint Committee action from the meeting of January 17, 1985 was published in the Illinois Register, February 1, 1985 (9 Ill. Reg. 1471).

Objection: The Joint Committee objected to Sections 401.100(d) and 401.110(d) of the Department of Nuclear Safety's rules entitled "Licensing

Persons in the Practice of Radiation Technology," because the rules conflict with Section 4.2 of the Radiation Protection Act (Ill. Rev. Stat. 1983, ch. 111 $\frac{1}{2}$, par. 214.2) by establishing two-year initial issuance periods for Conditional Accreditation Type II licenses.

Agency Response: Modification, published February 22, 1985 (9 Ill. Reg. 2553). Response received by the Joint Committee February 8, 1985.

Joint Committee Response: March 19, 1985, no further action.

Published as Adopted: February 22, 1985 (9 Ill. Reg. 2499), effective February 13, 1985.

Safe Operation of Nuclear Facility Boilers and Pressure Vessels (32 Ill. Adm. Code 505)

Proposal Originally Published in the Illinois Register, February 8, 1985 (9 Ill. Reg. 1573). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20976).

Objection 1: The Joint Committee objected to Section 505.30 of the Department of Nuclear Safety's rules on "Safe Operation of Nuclear Facility Boilers and Pressure Vessels" (32 Ill. Adm. Code 505.30) because, contrary to Section 6.02 of the Illinois Administrative Procedure Act, the rule incorporates by reference the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers as "hereafter amended" and without identifying the incorporated matter by date.

Objection 2: The Joint Committee objected to Section 505.170 of the rules of the Department of Nuclear Safety entitled "Nuclear Facility Safety" (32 Ill. Adm. Code 505) because this Section delegates the authority for commissioning Authorized Inspectors to the Office of the State Fire Marshal, contrary to the provisions of Section 2a of the Boiler Safety Act and Section 71(C)(3) of the Civil Administrative Code.

Recommendation: The Joint Committee recommended to the Department of Nuclear Safety that it seek legislation to amend the Boiler Safety Act and the Civil Administrative Code so as to clarify what Department shall be responsible for certifying Authorized Inspectors.

Agency Response to Objection: Pending.

Agency Response to Recommendation: Pending.

Joint Committee Response: Pending.

Published as Adopted:

POLLUTION CONTROL BOARD

Organic Emission Standards and Limitations (35 Ill. Adm. Code 215)

Proposal Originally Published in the Illinois Register, August 31, 1984 (8 Ill. Reg. 15864). This Joint Committee action from the the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12417).

Objection: The Joint Committee objected to the imposition of the requirements of Subpart Q of the Pollution Control Board's rules entitled "Organic Material Emission Standards and Limitations" (35 Ill. Adm. Code 215) on those plants located outside of "nonattainment" counties was accomplished without the Board taking into account the economic reasonableness of measuring and reducing "Organic Material" emissions, because the rule violates Section 27(a) of the Environmental Protection Act.

Agency Response: Refusal, published September 6, 1985 (9 Ill. Reg. 13757). Response received by the Joint Committee September 10, 1985.

Joint Committee Response: October 16, 1985, no further action.

Published as Adopted: September 13, 1985 (9 Ill. Reg. 13960), effective August 28, 1985.

Radiation Hazards (35 Ill. Adm. Code 1000.403)

Proposal Originally Published in the Illinois Register, May 10, 1985 (9 Ill. Reg. 6569). This Joint Committee action from the meeting of September 19, 1985 was published in the Illinois Register, October 4, 1985 (9 Ill. Reg. 15087).

Objection: The Joint Committee objected to Section 1000.403 of the Pollution Control Board's rules entitled "Radiation Hazards"; 35 Ill. Adm. Code 1000, because the Board has failed to include within the referenced section the proper standards, pursuant to Section 4.02 of the Illinois Administrative Procedure Act, by which it will exercise its discretionary power.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Solid Waste (35 Ill. Adm. Code 807.503, 807.507, 807.523, 807.600, 807.601, 807.620)

Proposal Originally Published in Illinois Register, August 10, 1985 (8 Ill. Reg. 14145). This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4909 and 4914).

Objection: The Joint Committee objected to Sections 807.503, 807.507, 807.523, 807.600, 807.601 and 807.620 of the Pollution Control Board's rule entitled "Solid Waste" (35 Ill. Adm. Code 807.503, 807.507, 807.523, 807.600, 807.601 and 807.620) because the Pollution Control Board lacks the statutory

authority to require a waste disposal operator to post security to cover the cost of closure and post-closure care of waste treatment and waste storage operations.

Recommendation: The Joint Committee suggested to the Pollution Control Board that it seek legislation to clarify the intent of Public Act 83-775 with respect to the posting of security for the cost of closure and post-closure care of waste treatment and waste storage operations.

Agency Response to Objection: Refusal to Modify or Withdraw, published May 10, 1985 (9 Ill. Reg. 6880). Response received by the Joint Committee April 29, 1985.

Agency Response to Recommendation: Agree. Response received by the Joint Committee April 29, 1985.

Joint Committee Response: June 19, 1985, recommendation for legislation.

Published as Adopted: May 10, 1985 (9 Ill. Reg. 6722), effective April 29, 1985.

PRISONER REVIEW BOARD

Prisoner Review Board Rules (20 Ill. Adm. Code 1610.35(b) and 1610.40)

Proposal Originally Published in the Illinois Register, March 8, 1985 (9 Ill. Reg. 2856). This Joint Committee action from the meeting of June 19, 1985 was published in the Illinois Register, July 5, 1985 (9 Ill. Reg. 10324).

Objection 1: The Joint Committee objected to Section 1610.35(b) of the rules of the Prisoner Review Board (20 Ill. Adm. Code 1610) because, contrary to Section 4.02 of the Illinois Administrative Procedure Act, the rule does not include the standards to be used by the Board in determining whether a youth is in need of further institutional programs or that parole would not be in the best interests of the community.

Objection 2: The Joint Committee objected to Section 1610.40 of the rules of the Prisoner Review Board because the rules are vague and do not include clear and precise standards to be used by the Board in determining whether information will be considered as evidence, as is required by Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Agreement to Modify, published October 25, 1985 (9 Ill. Reg. 16360). Response received by the Joint Committee August 2, 1985.

Joint Committee Response: August 28, 1985, no further action.

Published as Adopted: October 25, 1985 (9 Ill. Reg. 16257), effective October 10, 1985.

PUBLIC AID, DEPARTMENT OF

Administration of Social Service Programs (89 Ill. Adm. Code 130.110(c))

Proposal Originally Published in Illinois Register, November 30, 1984 (8 Ill. Reg. 23135). This Joint Committee action from the meeting of February 27, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3372).

Objection: The Joint Committee objected to Section 130.110(c) of the rules of the Department of Public Aid because, contrary to the provisions of Section 4.02 of the IAPA, the Department has not clearly and precisely set forth standards used to select service providers under the donated funds initiative.

Agency Response: Agreement to Modify, published June 7, 1985 (9 Ill. Reg. 8907). Response received by the Joint Committee May 20, 1985.

Joint Committee Response: June 19, 1985, no further action.

Published as Adopted: June 7, 1985 (9 Ill. Reg. 8645), effective May 22, 1985.

Aid to Families with Dependent Children (89 Ill. Adm. Code 112.80 and 112.73)

Proposal Originally Published in Illinois Register, November 2, 1984 (8 Ill. Reg. 21496). This Joint Committee action from the meeting of February 27, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3375).

Objection 1: The Joint Committee objected to the proposed amendment to Section 112.80 of the rules of the Department of Public Aid because, contrary to Section 2634 of the Deficit Reduction Act of 1984 and 45 C.F.R. 234.60(a)(12) and (13), the Department proposes to make AFDC payments to sanctioned individuals without first making all reasonable efforts to locate an individual to serve as a protective payee.

Objection 2: The Joint Committee objected to the proposed amendment to Section 112.73 of the rules of the Department of Public Aid because, contrary to Section 2634 of the Deficit Reduction Act of 1984, the Department proposes to make AFDC payments to sanctioned individuals without first making all reasonable efforts to locate an individual to serve as a protective payee.

Agency Response: Refusal to Modify or Withdraw, published May 31, 1985 (9 Ill. Reg. 8194). Response received by the Joint Committee May 17, 1985.

Joint Committee Response: June 19, 1985, no further action.

Published as Adopted: June 7, 1985 (9 Ill. Reg. 8155), effective May 17, 1985.

Aid to the Aged, Blind or Disabled (Day Care) (89 Ill. Adm. Code 113.303)

Proposal Originally Published in Illinois Register, February 8, 1985 (9 Ill. Reg. 1591). This Joint Committee action from the meeting of May 14, 1985

was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8225).

Recommendation: The Joint Committee suggested to the Department of Public Aid that it petition the Department of Children and Family Services to promulgate rules to place its maximum rates for day care, or its methodology for establishing such rates, in its rules prior to the Department of Public Aid's adoption of its amendments to Section 113.303.

Agency Response: Disagree. Response received by the Joint Committee July 1, 1985.

Joint Committee Response: July 25, 1985, no further action.

Published as Adopted: July 19, 1985 (9 Ill. Reg. 11302), effective July 5, 1985.

Aid to Families with Dependent Children (Maximum Amounts for Therapeutic Diet) (89 Ill. Adm. Code 112.308)

Proposal Originally Published in Illinois Register, February 8, 1985 (9 Ill. Reg. 1591). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8222).

Recommendation: The Joint Committee suggested to the Department of Public Aid that it petition the Department of Children and Family Services to promulgate rules to place its maximum rates for day care, or its methodology for establishing such rates, in its rules prior to the Department of Public Aid's adoption of its amendments to Section 112.308.

Agency Response: Disagree. Response received by the Joint Committee July 1, 1985.

Joint Committee Response: July 25, 1985, no further action.

Published as Adopted: July 19, 1985 (9 Ill. Reg. 11317), effective July 5, 1985.

Aid to the Aged, Blind or Disabled (Residence) (89 Ill. Adm. Code 113)

Proposal Originally Published in the Illinois Register, June 14, 1985 (9 Ill. Reg. 9086). This Joint Committee action from the meeting of September 19, 1985 was published in the Illinois Register, October 4, 1985 (9 Ill. Reg. 15090).

Recommendation: The Joint Committee suggested to the Department of Public Aid that it seek legislation amending the residency requirements contained in Section 2-10 of the Public Aid Code (Ill. Rev. Stat. 1983, ch. 23, par. 2-10) to conform to Federal residency requirements for Aid to the Aged, Blind and Disabled of 42 CFR 435.403(i)(ii).

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: October 25, 1985 (9 Ill. Reg. 16291), effective October 10, 1985.

Food Stamps (Assets) (89 Ill. Adm. Code 121.57(b)(1)(B))

Proposal Originally Published in Illinois Register, August 16, 1985 (9 Ill. Reg. 12815.) This Joint Committee action at the meeting of November 14, 1985 was published in the Illinois Register, November 14, 1985 (9 Ill. Reg. 18586).

Objection: The Joint Committee objected to Section 121.57(b)(1)(B) of the Department of Public Aid's rules governing the treatment of assets for eligibility for the Food Stamp Program because, contrary to federal regulations (7 C.F.R. 273.8 (1984)) the Department does not exempt all Keogh plans which involve a contractual relationship between a member of a food stamp household and a nonmember.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Food Stamps (Amount of Benefits) (89 Ill. Adm. Code 121.30)

Proposal Originally Published in Illinois Register, February 1, 1985 (9 Ill. Reg. 1229). This Joint Committee action from the meeting of April 16, 1985 was published in the Illinois Register, May 3, 1985 (9 Ill. Reg. 6428)

Objection: The Joint Committee objected to Section 121.30 of the proposed rules of the Department of Public Aid because, contrary to the provisions of Section 164 of the Omnibus Budget Reconciliation Act of 1982 and Federal Regulations (49 Fed. Reg. 48681, 12/14/84), the Department considers the penalty amount imposed for failure to comply with a federal, state, or local welfare program as available unearned income for determining eligibility for and coupon allotment under the Food Stamp program without determining whether the failure to comply was intentional.

Agency Response: Refusal to Modify or Withdraw, published May 10, 1985 (9 Ill. Reg. 6882). Response received by the Joint Committee May 7, 1985.

Joint Committee Response: June 19, 1985, no further action.

Published as Adopted: May 10, 1985 (9 Ill. Reg. 6804), effective May 1, 1985.

Food Stamps (Exempt Assets) (89 Ill. Adm. Code 121.58(b))

Proposal Originally Published in Illinois Register, October 19, 1984 (8 Ill. Reg. 20634). This Joint Committee action from the meeting of February 27, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3381).

Objection: The Joint Committee objected to Section 121.58(b) of the Department of Public Aid's rules governing the treatment of assets for eligibility for the Food Stamp program because, contrary to federal regulations (7 C.F.R. 273.8 (1984)) the Department does not exempt all Keogh plans which involve a contractual relationship between a member of a food stamp household and a nonmember.

Agency Response: Refusal to Modify or Withdraw, published June 7, 1985 (9 Ill. Reg. 8912). Response received by the Joint Committee May 24, 1985.

Joint Committee Response: June 19, 1985, no further action.

Published as Adopted: June 7, 1985 (9 Ill. Reg. 8665), effective May 29, 1985.

Food Stamps (Students) (89 Ill. Adm. Code 121.75(b))

Proposal Originally Published in Illinois Register, October 19, 1984, (8 Ill. Reg. 20634). This Joint Committee action from the meeting of February 27, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3385).

Objection: The Joint Committee objected to Section 121.75(b) of the Department of Public Aid's proposed rules because the language of this provision is inconsistent with the provisions of the United States Department of Agriculture regulations under the Food Stamp Act (7 C.F.R. Section 273.5(b)).

Agency Response: Refusal to Modify or Withdraw, published July 7, 1985 (9 Ill. Reg. 8912). Response received by the Joint Committee May 24, 1985.

Joint Committee Response: June 19, 1985, no further action.

Published as Adopted: June 7, 1985 (9 Ill. Reg. 8665), effective May 29, 1985.

General Assistance (Therapeutic Diet, Day Care, Substitute Parental Care/Supplemental Child Care) (89 Ill. Adm. Code 114.402)

Proposal Originally Published in Illinois Register, February 8, 1985 (9 Ill. Reg. 1620). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8228).

Recommendation: The Joint Committee suggested to the Department of Public Aid that it petition the Department of Children and Family Services to promulgate rules to place its maximum rates for day care, or its methodology for establishing such rates, in its rules prior to the Department of Public Aid's adoption of its amendments to Section 114.402.

Agency Response: Disagree. Response received by the Joint Committee July 1, 1985.

Joint Committee Response: July 25, 1985, no further action.

Published as Adopted: July 12, 1985 (9 Ill. Reg. 10764), effective July 5, 1985.

Medical Payment (Coverage of Disabled Persons 20 Years Old or Younger) (89 Ill. Adm. Code 140.645)

Proposal Originally Published in Illinois Register, December 21, 1984 (8 Ill. Reg. 24525). This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4920).

Objection: The Joint Committee objected to Section 140.645 of the proposed rules of the Department of Public Aid because, contrary to Section 5-2(7) of the Public Aid Code, the Department of Public Aid has proposed to provide medical and in-home care services to persons over eighteen years of age.

Agency Response: Refusal to Modify or Withdraw, published July 5, 1985 (9 Ill. Reg. 10301). Response received by the Joint Committee June 19, 1985.

Joint Committee Response: July 25, 1985, no further action.

Published as Adopted: July 5, 1985 (9 Ill. Reg. 10255), effective June 26, 1985.

Medical Assistance Programs (Residence) (89 Ill. Adm. Code 120)

Proposal Originally Published in the Illinois Register, June 14, 1985 (9 Ill. Reg. 9094). This Joint Committee action from the meeting of September 19, 1985 was published in the Illinois Register, October 4, 1985 (9 Ill. Reg. 15092).

Recommendation: The Joint Committee suggested to the Department of Public Aid that it seek legislation amending the residency requirements contained in Section 2-10 of the Public Aid Code (Ill. Rev. Stat. 1983, ch. 23, par. 2-10) to conform to Federal residency requirements for Aid to the Aged, Blind and Disabled of 42 CFR 435.403(i)(ii).

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: October 25, 1985 (9 Ill. Reg. 16300), effective October 10, 1985.

Medical Payment (Illinois Competitive Access and Reimbursement Equity [ICARE] Program) (89 Ill. Adm. Code 140)

Proposal Originally Published in Illinois Register, December 7, 1984 (8 Ill. Reg. 23576). This Joint Committee action at the meeting of April 16, 1985 was published in the Illinois Register, May 3, 1985 (9 Ill. Reg. 6431).

Recommendation 1: The Joint Committee suggested that the Department of Public Aid seek legislation amending the "Illinois Health Finance Reform Act" (Supp. to Ill. Rev. Stat. 1983, ch. 111½, par. 6501 et seq.) to allow the Department to require hospitals to agree to enforcement of a pledge of confidentiality through the issuance of a preliminary or permanent injunction or other court order and to limit the forms of recordkeeping to hand written notes.

Recommendation 2: The Joint Committee suggested that the Department of Public Aid seek legislation amending the "Illinois Health Finance Reform Act" (Supp. to Ill. Rev. Stat. 1983, ch. 111½, par. 6501 et seq.) to allow the Department to enter into contracts under the ICARE program with hospitals located outside the boundaries of the State of Illinois.

Agency Response: Agree. Response received by the Joint Committee June 5, 1985.

Joint Committee Response: July 25, 1985, no further action.

Published as Adopted: May 3, 1985 (9 Ill. Reg. 6235), effective April 19, 1985.

Medical Payment (Developmental Services) (89 Ill. Adm. Code 140)

Proposal Originally Published in the Illinois Register, March 29, 1985 (9 Ill. Reg. 3974). This Joint Committee action from the meeting of June 19, 1985 was published in the Illinois Register, July 5, 1985 (9 Ill. Reg. 10328 and 10331).

Objection: The Joint Committee objected to Section 140.648 of the proposed rulemaking of the Department of Public Aid governing the provision of day program services to residents of group care facilities because this rule fails to state the policy of the Department regarding when it will reimburse facilities for provision of day program services during the change-over from the system of prospective reimbursement currently operated by the Department of Mental Health and Developmental Disabilities to the system of retrospective reimbursement authorized by this proposed rulemaking.

Recommendation 1: The Joint Committee suggested to the Department of Public Aid that it seek legislation specifically authorizing it to pay for day programming services provided to its mentally retarded clients who reside in long term care facilities as a separate component of long term care facility rates and authorizing it to require that long term care facilities pass this reimbursement on to the day program providers.

Recommendation 2: The Joint Committee suggested that the Department of Public Aid seek legislation clarifying its authority to impose a penalty on long term care facilities that do not pass through funds for day programming services within three days.

Recommendation 3: The Joint Committee suggested to the Department of Public Aid that it seek legislation clarifying its authority to require

submission of cost reports from day program providers who contract with long term care facilities.

Recommendation 4: The Joint Committee suggested to the Department of Public Aid that it promulgate rules to detail the information required of day program providers when submitting the cost reports required by Section 140.542 of its rules governing day program providers.

Recommendation 5: The Joint Committee suggested to the Department of Public Aid that it promulgate rules describing the bases on which the monthly rate for day programming services provided to developmentally disabled residents of long term care facilities may be appealed and the procedures for such an appeal.

Recommendation 6: The Joint Committee suggested to the Department of Public Aid that it promulgate rules to detail the manner in which day program providers may receive reimbursement for the provision of transportation to residents of group care facilities with whom they have contracted to provide day program services.

Agency Response to Objection: Agreement to Modify, published July 19, 1985 (9 Ill. Reg. 11419). Response received by the Joint Committee June 27, 1985.

Agency Response to Recommendations: Failure to Respond.

Joint Committee Response: Pending.

Published as Adopted: July 19, 1985 (9 Ill. Reg. 11357), effective June 28, 1985.

Medical Payment (Reimbursing Support Costs of Nursing Homes) 89 Ill. Adm. Code 140.561)

Proposal Originally Published in Illinois Register, July 12, 1985 (9 Ill. Reg. 10619). This Joint Committee action at the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18589).

Objection: The Joint Committee objected to the proposed amendment to Section 140.561 of the Department of Public Aid's rules governing reimbursement of support costs of nursing homes because the Department does not base the support cost rate of nursing home facilities on projected budgets submitted by nursing homes which is required by Section 5-5.4 of the Illinois Public Aid Code (Ill. Rev. Stat. 1984, ch. 23, par. 5-5.4).

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Related Program Provisions (89 Ill. Adm. Code 117.10(b)(3)(B))

Proposal Originally Published in the Illinois Register, February 15, 1985 (9 Ill. Reg. 2134). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8231).

Objection: The Joint Committee objected to the proposed amendment to Section 117.10(b)(3)(B) of the rules of the Department of Public Aid because, contrary to Section 2634 of the Deficit Reduction Act of 1984 and 45 C.F.R. 234.60(a)(12) and (13), the Department proposes to make AFDC payments to sanctioned individuals without first making all reasonable efforts to locate an individual to serve as a protective payee.

Agency Response: Refusal to Modify or Withdraw, published June 7, 1985 (9 Ill. Reg. 8917). Response received by the Joint Committee May 24, 1985.

Joint Committee Response: June 19, 1985, no further action.

Published as Adopted: June 7, 1985 (9 Ill. Reg. 8733), effective May 29, 1985.

Related Program Provisions (Substitute Parental Care/Supplemental Child Care) (89 Ill. Adm. Code 117.60)

Proposal Originally Published in the Illinois Register, February 8, 1985 (9 Ill. Reg. 1669). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8235).

Recommendation: The Joint Committee suggested to the Department of Public Aid that it petition the Department of Children and Family Services to promulgate rules to place its maximum rates for day care, or its methodology for establishing such rates, in its rules prior to the Department of Public Aid's adoption of its amendments to Section 117.60.

Agency Response: Disagree. Response received by the Joint Committee July 1, 1985.

Joint Committee Response: July 25, 1985, no further action.

Published as Adopted: July 12, 1985 (9 Ill. Reg. 10779), effective July 5, 1985.

DEPARTMENT OF PUBLIC HEALTH

Asbestos Abatement for Private and Public Schools in Illinois (77 Ill. Adm. Code 855)

Proposal Originally Published in Illinois Register, August 9, 1985 (9 Ill. Reg. 12189). This Joint Committee action at the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18591).

Recommendation: The Joint Committee requested that the Illinois Department of Public Health agree to submit to the Joint Committee the U.S. Environmental Protection Agency guidelines referenced in Sections 855.10,

855.120 and 855.23 of the Asbestos Abatement Act regulations for review and approval pursuant to the provisions of Section 6.02(b) of the Illinois Administrative Procedure Act (effective January 1, 1986) and that the Joint Committee review this submission using the standards for evaluation of Section 6.02(b) incorporations detailed in proposed rules of the Joint Committee published in the October 25, 1985 Illinois Register at page 16146. As an element of this agreement, the Department would agree that if the Joint Committee determines that this material may not be validly incorporated pursuant to Section 6.02(b) of the IAPA, the Department will immediately initiate rulemaking deleting these incorporations.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: December 6, 1985 (9 Ill. Reg. 19052), effective November 29, 1985.

Asbestos Abatement for Private and Public Schools (77 Ill. Adm. Code 855)

Proposal Originally Published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12189). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20984).

Recommendation 1: The Joint Committee suggested to the Department of Public Health that within 30 days of December 9, 1985, the date upon which House Bill 1252 became law (P.A. 84-1096), it initiate rulemaking pursuant to Section 5.01 of the Illinois Administrative Procedure Act to amend its rules governing Asbestos Abatement for Private and Public Schools in Illinois to implement the changes in the Asbestos Abatement Act to be made by HB 1252, which passed both Houses of the General Assembly on October 30, 1985 and was sent to the Governor on November 13, 1985.

Recommendation 2: In addition, because P.A. 84-1096 significantly amends the Asbestos Abatement Act, the Joint Committee requested that the Department of Public Health provide the Joint Committee with a specific timetable for the adoption of rules implementing P.A. 84-1096, including dates for initial proposal, public hearings, second notice submission to the Joint Committee, and final adoption.

Agency Response to Recommendations: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Control of Communicable Diseases (77 Ill. Adm. Code 690.1100(b)(2)(D))

Proposal Originally Published in Illinois Register, December 7, 1984 (8 Ill. Reg. 23580). This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4925).

Objection: The Joint Committee objected to Section 690.1100(b)(2)(D) of the Department of Public Health's rules entitled "Control of Communicable Diseases" (77 Ill. Adm. Code 690.1100(b)(2)(D)) because the Department lacks the statutory authority to promulgate rules requiring certain individuals to report cases of venereal diseases in children under age 11 to the Department of Children and Family Services.

Recommendation: The Joint Committee suggested to the Department of Children and Family Services that it amend its rules to clarify its disclosure and reporting policies in view of Public Act 83-1406.

Agency Response to Objection: Agreement to Modify, published June 14, 1985 (9 Ill. Reg. 9255). Response received by the Joint Committee June 17, 1985.

Agency Response to Recommendation: Refusal to Modify or Withdraw. Response received by the Joint Committee June 17, 1985.

Joint Committee Response: July 25, 1985, no further action.

Published as Adopted: June 14, 1985 (9 Ill. Reg. 9124), effective June 3, 1985.

Hospice Programs (77 Ill. Adm. Code 280.202(c), 280.205, 280.303(g))

Proposal Originally Published in the Illinois Register, May 17, 1985 (9 Ill. Reg. 7104). This Joint Committee action from the meeting of September 19, 1985 was published in the Illinois Register, October 4, 1985 (9 Ill. Reg. 15094).

Objection 1: The Joint Committee objected to Section 280.202(c) of the Department of Public Health's rules entitled "Hospice Programs" because the Department lacks the statutory authority to issue a hospice license, based upon submission of a plan of correction by the hospice, to a hospice program which is not in compliance with the Hospice Program Licensing Act and the Department's rules governing hospice programs.

Objection 2: The Joint Committee objected to Section 280.205 of the Department of Public Health's rules entitled "Hospice Programs" because the Department lacks the statutory authority to require hospices to be subject at all times to inspection by the Department.

Objection 3: The Joint Committee objected to Section 280.303(g) of the Department of Public Health's rules entitled "Hospice Programs" because the Department lacks the statutory authority to delegate to hospices the authority to determine the number and qualifications of persons providing direct hospice services.

Recommendation: The Joint Committee suggested to the Department of Public Health that it seek legislation to amend the Hospice Program Licensing Act to explicitly grant the authority to issue a hospice license to a hospice program which is not in compliance with the Hospice Program Licensing Act and the Department's rules governing hospice programs.

Agency Response to Objection: Refusal to Modify or Withdraw, published October 11, 1985 (9 Ill. Reg. 15593). Response received by the Joint Committee October 1, 1985.

Agency Response to Recommendation: Agree. Response received by the Joint Committee October 1, 1985.

Joint Committee Response: November 14, 1985, recommendation to draft legislation.

Published as Adopted: October 11, 1985 (9 Ill. Reg. 15521), effective October 3, 1985.

REGISTRATION AND EDUCATION, DEPARTMENT OF

Funeral Directors and Embalmers Act (68 Ill. Adm. Code 250)

Proposal Originally Published in Illinois Register, May 11, 1984 (8 Ill. Reg. 6646). This Joint Committee action from the meeting of February 21, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3388).

Recommendation: The Joint Committee suggested that the Department of Registration and Education seek legislation to amend the Funeral Directors and Embalmers Licensing Act of 1935 to grant it the specific authority to impose restrictions and prohibitions concerning the advertising and solicitation of funeral services to the extent that such restrictions and prohibitions are constitutional

Agency Response: Failure to Respond.

Joint Committee Response: July 25, 1985, no further action.

Published as Adopted: April 5, 1985 (9 Ill. Reg. 4529), effective March 27, 1985.

Illinois Architecture Act (68 Ill. Adm. Code 150.80(c))

Proposal Originally Published in Illinois Register, June 22, 1984 (8 Ill. Reg. 8984). This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4929).

Objection: The Joint Committee objected to Section 150.80(c) of the rules of the Department of Registration and Education entitled "Illinois Architecture Act" because that provision violates Section 4.02 of the Illinois Administrative Procedure Act because it fails to set forth the standards used by the Department to determine the time within which it will issue a certificate or notify the applicant of denial of a certificate of registration.

Agency Response: Agreement to Modify, published April 12, 1985 (9 Ill. Reg. 5388). Response received by the Joint Committee April 17, 1985.

Joint Committee Response: May 15, 1985, no further action.

Published as Adopted: April 26, 1985 (9 Ill. Reg. 5691), effective April 16, 1985.

Illinois Public Accounting Act (68 Ill. Adm. Code 420)

Proposal Originally Published in the Illinois Register, February 15, 1985 (9 Ill. Reg. 2196). This Joint Committee action from the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12428).

Objection: The Joint Committee objected to Section 420.65(e) of the Department of Registration and Education's rules entitled "Public Accounting Act" because that section violates Section 4.02 of the Illinois Administrative Procedure Act in that it fails to set forth the standards used by the Department to determine whether to waive enforcement of a CPE requirement, as opposed to extending the time for compliance or establishing a particular program or schedule of continuing education.

Agency Response: Refusal to Amend or Withdraw, published August 30, 1985. Response received by the Joint Committee August 22, 1985.

Joint Committee Response: September 19, 1985, no further action.

Published as Adopted: August 30, 1985 (9 Ill. Reg. 13360), effective August 21, 1985.

Pharmacy Practice Act (68 Ill. Adm. Code 330)

Proposal Originally Published in the Illinois Register, April 5, 1985 (9 Ill. Reg. 4409). This Joint Committee action from the July 25, 1985 meeting was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12422).

Objection 1: The Joint Committee objected to Sections 330.92 and 330.93 of the Department of Registration and Education's rules under the Pharmacy Practice Act, which prohibit the transfer of prescriptions more than once between pharmacies for the purpose of refill dispensing, because the rule goes beyond legislative intent.

Objection 2: The Joint Committee objected to Section 330.91(c) of the rules of the Department of Registration and Education because the Department does not have the statutory authority to require that a pharmacy licensed in more than one Division designate a different pharmacist-in-charge for each Division.

Objection 3: The Joint Committee objected to Section 330.20(a)(2) of the rules of the Department of Registration and Education entitled "Pharmacy Practice Act" because the Department failed to provide the standards used to determine what constitutes a "sufficient number of full-time instructors" by the Department, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published November 1, 1985 (9 Ill. Reg. 17049). Response received by the Joint Committee October 11, 1985.

Joint Committee Response: November 14, 1985, recommendation to draft legislation (Objections 1 and 2).

Published as Adopted: November 1, 1985 (9 Ill. Reg. 16918), effective October 23, 1985.

Professional Engineering Act (68 Ill. Adm. Code 380.210(a)(2))

Proposal Originally Published in Illinois Register, October 26, 1984 (8 Ill. Reg. 21174). This Joint Committee action from the meeting of April 16, 1985 was published in the Illinois Register, May 3, 1985 (9 Ill. Reg. 6436).

Objection: The Joint Committee objected to Section 380.210(a)(2) of the rules of the Department of Registration and Education entitled "Professional Engineering Act" because the Department failed to provide the standards used to determine what constitutes a "sufficient number of full-time instructors" by the Department, whether faculty members are from "reputable" colleges and what constitutes "sufficient time" for research and professional development for the faculty, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published June 28, 1985 (9 Ill. Reg. 10040). Response received by the Joint Committee June 11, 1985.

Joint Committee Response: July 25, 1985, no further action.

Published as Adopted: June 28, 1985, (9 Ill. Reg. 10040), effective June 16, 1985.

Veterinary Medicine and Surgery Practice Act (68 Ill. Adm. Code 500.5(a)(1)(B), 500.5(b)(1), 500.5(a), 500.5(a)(9), 500.5(a)(11) and 500.5(a)(12))

Proposal Originally Published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3193). This Joint Committee action from the meeting of September 19, 1985 was published in the Illinois Register, October 25, 1985 (9 Ill. Reg. 16361).

Objection 1: The Joint Committee objected to Section 500.5(a)(1)(B) of the Department of Registration and Education's rules entitled "Veterinary Medicine and Surgery Practice Act" because it violates Section 4.02 of the Illinois Administrative Procedure Act in that it fails to set forth the standards used by the Department to determine what constitutes "reputable" professional colleges or institutions.

Objection 2: The Joint Committee objected to Sections 500.5(b)(1), 500.5(a), 500.5(a)(9), (11) and (12) of the Department of Registration and Education's rules entitled "Veterinary Medicine and Surgery Practice Act" because,

contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the proposed rules fail to include the standards used in making discretionary determinations and the Department has failed to include relevant agency policy within the rules.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: October 25, 1985 (9 Ill. Reg. 16327), effective October 10, 1985.

REHABILITATION SERVICES, DEPARTMENT OF

Vending Stand Program for the Blind (89 Ill. Adm. Code 650.1000 and 650.70(a)(4)(A))

Proposal Originally Published in Illinois Register, August 3, 1984 (8 Ill. Reg. 13615). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8237).

Objection 1: The Joint Committee objected to Section 650.1000 of the rules of the Department of Rehabilitation Services entitled "Vending Stand Program for the Blind" because it over-regulates "self-employed" vending stand operators, and violates the legislative intent of Section 2 of "An Act in relation to the operation of vending facilities on public and private property by blind persons, and to repeal certain Acts herein named" (Ill. Rev. Stat. 1983, ch. 23, par. 3331 et seq.).

Objection 2: The Joint Committee objected to Section 650.70(a)(4)(A) of the rules of the Department of Rehabilitation Services entitled "Vending Stand Program for the Blind" (89 Ill. Adm. Code 650) because, contrary to Section 4.02 of the Illinois Administrative Procedure Act, the rule does not include clear and precise standards to be used by the Department to determine whether a vendor will be suspended prior to an evidentiary hearing.

Agency Response: Refusal to Modify or Withdraw, published August 9, 1985 (9 Ill. Reg. 12390). Response received by the Joint Committee August 1, 1985.

Joint Committee Response: August 28, 1985, no further action.

Published as Adopted: August 9, 1985 (9 Ill. Reg. 12347), effective August 5, 1985.

RETIREMENT SYSTEM OF THE STATE OF ILLINOIS, TEACHERS'

Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650.450(a)(4), 1650.450(b)(5), 1650.250(a), 1650.230(b) and (c), 1650.580)

Proposal Originally Published in the Illinois Register, June 7, 1985 (9 Ill. Reg. 8543). This Joint Committee action from the meeting of September 19,

1985 was published in the Illinois Register, October 4, 1985 (9 Ill. Reg. 15113).

Objection 1: The Joint Committee objected to Section 1650.450(a)(4) of the System's rulemaking because that provision violates Section 4.02 of the Illinois Administrative Procedure Act in that it fails to set forth the standards used to determine if fringe benefits are "recognized by the System."

Objection 2: The Joint Committee objected to Section 1650.450(b)(5) of the System's rulemaking because that provision violates Section 4.02 of the Act in that it fails to adequately set forth the criteria used by the System to determine the purpose of an employer's payment in lieu of fringe benefits.

Objection 3: The Joint Committee objected to Section 1650.250(a) because it violates Section 16-141 of the Pension Code by requiring that a designated dependent beneficiary receive an annuity where the designated non-dependent beneficiary disclaims a survivor's benefit.

Objection 4: The Joint Committee objected to Sections 1650.230(b) and (c) of the rules of the Teachers' Retirement System because, contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the rules fail to articulate the standards used by the System in determining whether to require additional medical examinations and request hospital information and other data.

Objection 5: The Joint Committee objected to Section 1650.580 of the rules of the Teachers' Retirement System because, contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the rule fails to set forth the standards used by the System in determining what evidence of eligibility will be determined satisfactory.

Agency Response: Agreement to Modify (Objection 3), Refusal to Modify or Withdraw (Objections 1, 2, 4, and 5) published December 13, 1985 (9 Ill. Reg. 19419). Response received by the Joint Committee December 5, 1985.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Procurement Rules (44 Ill. Adm. Code 1225)

Proposal Originally Published in the Illinois Register, June 7, 1985 (9 Ill. Reg. 8570). This Joint Committee action from the meeting of September 19, 1985 was published in the Illinois Register, October 4, 1985 (9 Ill. Reg. 15111).

Objection: The Joint Committee objected to the rulemaking of the Teachers' Retirement System of the State of Illinois entitled "Procurement Rules" because the System lacks statutory authority to file such rules without the approval of the Department of Central Management Services (DCMS) and such approval has been denied by DCMS.

Agency Response: Withdrawal, published December 13, 1985 (9 Ill. Reg. 19422). Response received by the Joint Committee December 5, 1985.

Joint Committee Response: Pending.

REVENUE, DEPARTMENT OF

Income Tax Regulations (86 Ill. Adm. Code 100)

Proposal Originally Published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4754). This Joint Committee action from the meeting of September 19, 1985 was published in the Illinois Register, October 4, 1985 (9 Ill. Reg. 15106).

Recommendation: The Joint Committee suggested to the Department of Revenue that it seek legislation amending Section 2-203(c) of the Illinois Income Tax Act to specifically authorize the reduction of the add-back provision of 2-203(c)(2)(B) in an amount which the taxpayer would otherwise be entitled to take as a charitable deduction.

Agency Response: Agree. Response received by the Joint Committee October 18, 1985.

Joint Committee Response: November 14, 1985, monitor legislation.

Published as Adopted: November 1, 1985 (9 Ill. Reg. 16986), effective October 21, 1985.

SCHOLARSHIP COMMISSION, STATE

Correctional Officers' Survivor Grant Program (23 Ill. Adm. Code 1731)

Proposal Originally Published in the Illinois Register, August 16, 1985 (9 Ill. Reg. 12594). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20987).

Objection: The Joint Committee objected to Section 1731.20(c) of the rules of the Illinois State Scholarship Commission (ISSC) governing the Correctional Officer's Survivor Grant Program because the ISSC lacks the statutory authority to require that grant recipients maintain satisfactory academic progress.

Recommendation: The Joint Committee suggested to the ISSC that if it believes that it should be able to require that grant recipients maintain satisfactory academic progress that it seek legislation amending the Correctional Officer's Survivor Grant Program to grant the ISSC such authority.

Agency Response to Objection: Pending.

Agency Response to Recommendation: Pending.

Published as Adopted: Pending.

General Provisions (23 Ill. Adm. Code 1700)

Date Originally Published in the Illinois Register: August 16, 1985 (9 Ill. Reg. 12598). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20993).

Objection: The Joint Committee objected to Section 1700.70 of the rules of the Illinois State Scholarship Commission (ISSC) entitled "General Provisions" (23 Ill. Adm. Code 1700) because the rules are vague and, contrary to the requirements of the Illinois Administrative Procedure Act, fail to inform those affected of the procedures that will be used by the ISSC in hearing contested cases.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Limitation, Suspension or Termination Proceedings (23 Ill. Adm. Code 1790)

Proposal Originally Published in the Illinois Register, August 16, 1985 (9 Ill. Reg. 12641). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20996).

Objection: The Joint Committee objected to Section 1790.110(c) of the rules of the Illinois State Scholarship Commission (ISSC) entitled "Limitation, Suspension, or Termination Proceedings" (23 Ill. Adm. Code 1790) because, contrary to Section 4.02 of the Illinois Administrative Procedure Act, the rule does not include the standards to be used by the ISSC in determining whether to require a lender to proceed with collection efforts on all loans made prior to the effective date of a termination.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Merit Recognition Scholarship (MRS) Program (23 Ill. Adm. Code 1761.30(b)(3), 1761.20, and 1761.30)

Proposal Originally Published in Illinois Register, February 1, 1985 (9 Ill. Reg. 1308). This Joint Committee action from the meeting of May 14, 1985 was published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8242).

Objection 1 The Joint Committee objected to Section 1761.30(b)(3) of the Illinois State Scholarship Commission's rules for the Merit Recognition Scholarship Program because the Commission lacks the statutory authority to require that the initial merit scholarship be utilized in the academic year following high school graduation.

Objection 2: The Joint Committee objected to Section 1761.20 of the rules of the Illinois State Scholarship Commission regarding the Merit Recognition Scholarship (MRS) Program (23 Ill. Adm. Code 1761) because the Commission lacks the statutory authority to require high schools to designate one graduation date per academic year.

Recommendation 1: The Joint Committee suggested that the Illinois State Scholarship Commission seek legislation to amend Section 30-15.7b of the School Code (Ill. Rev. Stat. 1984 Supp., ch. 122, par. 30-15.7b) to state explicitly the period of time during which Merit Recognition Scholarship funds must be used.

Recommendation 2: Because the Joint Committee believes that one graduation date per academic year should be designated, it suggested that the Illinois State Scholarship Commission seek legislation to amend Section 30-15.7b of the School Code (Ill. Reg. Stat. 1983, ch. 122, par. 30-15.7b) to grant the Commission the authority to require high schools to designate one graduation date per academic year.

Agency Response to Objections: Refusal to Modify or Withdraw, published July 5, 1985 (9 Ill. Reg. 10303). Response received by the Joint Committee June 27, 1985.

Agency Response to Recommendations: Disagree. Response received by the Joint Committee June 27, 1985.

Joint Committee Response: July 25, 1985, recommendation to draft legislation.

Published as Adopted: July 5, 1985 (9 Ill. Reg. 10277), effective July 5, 1985.

SECRETARY OF STATE

Certification of Title, Registration of Vehicles (92 Ill. Adm. Code 101)

Proposal Originally Published in Illinois Register, September 27, 1985 (9 Ill. Reg. 14539). This Joint Committee action from the meeting of December 11, 1985 was published in the Illinois Register, December 27, 1985 (9 Ill. Reg. 20998).

Recommendation: The Joint Committee recommended to the Secretary of State that he seek legislation to specifically allow him to require documentation to prove that an imported vehicle not manufactured in accordance with federal safety and emission standards has received final admittance by Customs before receiving title and registration.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Certificates of Title, Registration of Vehicles (92 Ill. Adm. Code 1010)

Proposal Originally Published in the Illinois Register, April 26, 1985 (9 Ill. Reg. 5575). This Joint Committee action from the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12431).

Recommendation: The Joint Committee suggested to the Secretary of State that he seek legislation allowing a vehicle registration discount for the spouses, widows and widowers of claimants eligible under Section 3-806.3 of the "Illinois Vehicle Code."

Agency Response: Agree. Response received by the Joint Committee October 22, 1985.

Joint Committee Response: November 14, 1985, recommendation to monitor agency legislation.

Published as Adopted: August 16, 1985 (9 Ill. Reg. 12863), effective August 2, 1985.

Issuance of Licenses (92 Ill. Adm. Code 1030.55(a))

Proposal Originally Published in Illinois Register, June 22, 1984 (8 Ill. Reg. 9044). This Joint Committee action from the meeting of January 17, 1985 was published in the Illinois Register, February 1, 1985 (9 Ill. Reg. 1474).

Objection: The Joint Committee objected to Section 1030.55(a) of the Secretary of State's rules entitled "Issuance of Licenses" because that provision violates Section 4.02 of the Illinois Administrative Procedure Act by failing to set forth the standards for successfully completing Class A and B license driving tests.

Agency Response: Modification, published March 1, 1985 (9 Ill. Reg. 2720). Response received by the Joint Committee February 18, 1985.

Joint Committee Response: March 19, 1985, recommendation to monitor rulemaking.

Published as Adopted: March 1, 1985 (9 Ill. Reg. 2716), effective February 20, 1985.

Local Records Commission (44 Ill. Adm. Code 4000)

Proposal Originally Published in the Illinois Register, July 12, 1985 (9 Ill. Reg. 10635). This Joint Committee action from the meeting of September 19, 1985 was published in the Illinois Register, October 4, 1985 (9 Ill. Reg. 15109).

Recommendation: The Joint Committee suggested to the Local Records Commission that it promulgate as rules, in accordance with Section 5 of the Illinois Administrative Procedure Act, its retention schedules used in the granting of approval to destroy or dispose of records.

Agency Response: Disagree. Response received by the Joint Committee received November 18, 1985.

Joint Committee Response: Pending.

Published as Adopted: Pending.

Public Library Construction Grants (23 Ill. Adm. Code 3060)

Proposal Originally Published in the Illinois Register, April 5, 1985 (9 Ill. Reg. 4464). This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14091).

Objection 1: The Joint Committee objected to Section 3060.800(c) of the Secretary of State's (Illinois State Library) rules governing Public Library Construction Grants because the State Library lacks the statutory authority to require that grantee libraries place a plaque in the completed building stating that funds administered by the Secretary of State and State Librarian were used for the building's construction and to require that grantee libraries display a sign on the construction site stating that State funds administered by the Secretary of State and State Librarian are being used for the construction.

Objection 2: The Joint Committee objected to Section 3060.800(c)(23) of the rules of the Secretary of State governing "Public Library Construction Grants" (23 Ill. Adm. Code 3060) because, contrary to Section 4.02 of the Illinois Administrative Procedure Act, this section does not include the standards to be used by the Illinois State Library in approving the use of a library building for purposes other than as a library.

Recommendation 1: The Joint Committee suggested that the Secretary of State (Illinois State Library) promulgate rules to set forth the information which the State Librarian requires to be included in a library's quarterly narrative and financial reports related to construction grant policies.

Recommendation 2: The Joint Committee suggested to the Secretary of State (State Library) that prior to the adoption of its rules governing Public Library Construction Grants (23 Ill. Adm. Code 3060) it work with the Joint Committee to review and examine the policies of the American Institute of Architecture as they relate to construction contracts required by Section 3060.800.

Agency Response to Objection: Refusal to Modify or Withdraw, published October 4, 1985 (9 Ill. Reg. 15069). Response received by the Joint Committee October 4, 1985.

Agency Response to Recommendation: Agree. Response received by the Joint Committee October 18, 1985.

Joint Committee Response: November 14, 1985, no further action (Objections 1 and 2); Joint Committee monitor rulemaking (Recommendation 1); and agency submit form required by rules to Department of Central Management Services for review (Recommendation 2).

Published as Adopted: October 4, 1985 (9 Ill. Reg. 15005), effective September 25, 1985.

STATE POLICE, DEPARTMENT OF

Intergovernmental Drug Enforcement Act (20 Ill. Adm. Code 1220.340(b))

Proposal Originally Published in the Illinois Register, April 29, 1985 (9 Ill. Reg. 5039). This Joint Committee action from the meeting of October 16, 1985 was published in the Illinois Register, November 1, 1985 (9 Ill. Reg. 17081).

Objection 1: The Joint Committee objected to Section 1220.340(b) of the Department of State Police's rulemaking entitled "Intergovernmental Drug Enforcement Act" because the rulemaking violates Section 4.02 of the Illinois Administrative Procedure Act in that it fails to set forth the standards used by the Director to determine which applicant, or applicants, will be awarded the auditing contract.

Objection 2: The Joint Committee objected to Section 1220.340(b) of the rulemaking of the Department of State Police entitled "Intergovernmental Drug Enforcement Act" because the Department lacks statutory authority to file such a rule without the approval of the Department of Central Management Services (DCMS), as required in Section 5 of the Illinois Purchasing Act, and such approval has not been obtained from DCMS.

Agency Response: Pending.

Joint Committee Response: Pending.

Published as Adopted: Pending.

VETERANS' AFFAIRS, DEPARTMENT OF

Vietnam Veterans' Act Program (95 Ill. Adm. Code 117.70(d))

Proposal Originally Published in Illinois Register, November 26, 1985 (8 Ill. Reg. 22837). This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4932).

Objection: The Joint Committee objected to Section 117.70(d) of the rules of the Department of Veterans' Affairs because, by requiring directors of multi-purpose service centers to submit quarterly reports of programmatic and financial activities the Department has exceeded its statutory authority under Section 6(d) of the Vietnam Veterans' Act.

Recommendation: The Joint Committee suggested that the Department of Veterans' Affairs, in conjunction with the staff of the Joint Committee on Administrative Rules, develop legislation amending the Vietnam Veterans' Act (Ill. Rev. Stat. 1983, ch. 126½, par. 201 et seq.) to grant the explicit statutory to require quarterly reports of programmatic and financial activities from multi-purpose service centers.

Agency Response to Objection: Agreement to Modify, published May 10, 1985 (9 Ill. Reg. 6883). Response received by the Joint Committee May 14, 1985.

Agency Response to Recommendation: Agree. Response received by the Joint Committee May 14, 1985.

Joint Committee Response: June 19, 1985, no further action.

Published as Adopted: July 26, 1985 (9 Ill. Reg. 11665), effective July 31, 1985.

1985 OBJECTIONS AND RECOMMENDATIONS TO EMERGENCY RULEMAKING

CAPITAL DEVELOPMENT BOARD

Prequalification and Suspension of Contractors (44 Ill. Adm. Code 950.280)

Emergency Rule Originally Published in Illinois Register, March 22, 1985 (9 Ill. Reg. 3821), effective March 5, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of April 16, 1985 was published in the Illinois Register, May 3, 1985 (9 Ill. Reg. 6393)

Objection to Emergency Rulemaking: The Joint Committee objected to the emergency amendment to Section 950.280 of the "Prequalification and Suspension of Contractors" rules of the Capital Development Board because, contrary to the requirements of Section 5.02 of the Illinois Administrative Procedure Act, the emergency situation requiring rulemaking was agency-created.

Agency Response: Failure to Respond.

Joint Committee Response: August 28, 1985, no further action.

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

Pay Plan (80 Ill. Adm. Code 310.230, 310.290, 310.Appendix A, Table G and Table P)

Emergency Rule Originally Published in Illinois Register, October 4, 1985 (9 Ill. Reg. 15043), effective September 24, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18595).

Objection to Emergency Rulemaking: The Joint Committee objected to the Department's emergency amendments to Sections 310.230, 310.290, 310. Appendix A Table G and 310. Appendix A Table P because there was no emergency which justified the use of emergency rulemaking under Section 5.02 of the Illinois Procedure Act.

Agency Response: Pending.

Joint Committee Response: Pending.

COMMUNITY COLLEGE BOARD, ILLINOIS

Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501.501, 1501.503)

Emergency Rule Published in Illinois Register, November 16, 1984 (8 Ill. Reg. 22603), effective November 7, 1984, for a maximum of 150 days. This action from the Joint Committee meeting of January 17, 1985, was published in the Illinois Register, February 1, 1985 (9 Ill. Reg. 1467).

Objection to Emergency Rulemaking: The Joint Committee objected to Sections 1501.501 and 150.503 of the emergency rulemaking amending the rules of the Illinois Community College Board because, contrary to the provisions of Section 5.02 of the Illinois Administrative Procedure Act, the Board has included in those sections amendments for which no emergency exists.

Agency Response: Failure to Respond.

Joint Committee Response: April 16, 1985, no further action.

CONSERVATION, DEPARTMENT OF

Duck, Goose and Coot Hunting Regulations (17 Ill. Adm. Code 590)

Emergency Rule Originally Published in Illinois Register, October 18, 1985 (9 Ill. Reg. 15928), effective October 8, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18597).

Objection to Emergency Rulemaking: The Joint Committee objected to the Department of Conservation's October 7, 1985 emergency amendment to 17 Ill. Adm. Code 590.60, "Duck, Goose and Coot Hunting Regulations" because no emergency situation exists which requires the use of the emergency rulemaking procedure of Section 5.02 of the Illinois Administrative Procedure Act.

Agency Response: Pending.

Joint Committee Response: Pending.

EDUCATION, STATE BOARD OF

Dismissal of Tenured Teachers and Civil Service Employees Under Article 34 (23 Ill. Adm. Code 52.35(d)(4))

Emergency Rule Originally Published in Illinois Register August 23, 1985 (9 Ill. Reg. 13123), effective August 9, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18600).

Objection 1 to Emergency Rulemaking: The Joint Committee objected to Section 52.35(d)(4) of the Board's emergency rulemaking because the rule conflicts with Section 34-85 of the School Code (Ill. Rev. Stat. 1983, ch. 122, par. 34-85, as amended by P.A. 84-126, effective August 1, 1985).

Objection 2 to Emergency Rulemaking: The Joint Committee objected to Section 52.35(d)(4) of the Board's emergency rulemaking because this section implements policies which are not required by the emergency situation in violation of Section 5.02 of the Illinois Administrative Procedure Act.

Agency Response: Pending.

Joint Committee Response: Pending.

ELECTIONS, STATE BOARD OF

Established Political Party and Independent Candidate Nominating Petitions (26 Ill. Adm. Code 201)

Emergency Rule Published in Illinois Register, December 14, 1984 (8 Ill. Reg. 24311) effective November 29, 1984, for a maximum of 150 days. This Joint Committee action at the meeting of February 27, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3366).

Objection 1 to Emergency Rulemaking: The Joint Committee objected to Section 210.50(b) of the emergency rulemaking of the Illinois State Board of Elections entitled "Established Political Party and Independent Candidate Nominating Petitions" (26 Ill. Adm. Code 201.50(b)) because the rule conflicts with Section 7-10(k) of the Election Code regarding the number of signatures needed for nominating petitions for wards or districts of political subdivisions.

Objection 2 to Emergency Rulemaking: The Joint Committee objected to Section 201.50(c) of the emergency rulemaking of the Illinois State Board of Elections entitled "Established Political Party and Independent Candidate Nominating Petitions" (26 Ill. Adm. Code 201.50(c)) because no emergency exists which requires use of the emergency rulemaking procedures of Section 5.02 of the Illinois Administrative Procedure Act.

Recommendation to Emergency Rulemaking: The Joint Committee suggested that the State Board of Elections seek legislation to amend the Election Code to authorize the imposition of a signature requirement for wards or districts of political subdivisions which differ from the requirement stated in Section 7-10(k) of the Election Code.

Agency Response: Failure to Respond.

Joint Committee Response: July 25, 1985, no further action.

ENVIRONMENTAL PROTECTION AGENCY

Procedures for Collection of Permit and Inspection Fees (35 Ill. Adm. Code 856.204(a))

Emergency Rule Published in Illinois Register, January 11, 1985 (9 Ill. Adm. Code 399), effective January 1, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4899).

Objection to Emergency Rulemaking: The Joint Committee objected to Section 856.204(a) of the Environmental Protection Agency's December 28, 1984 emergency rulemaking entitled "Procedures for Collection of Permit and Inspection Fees" (35 Ill. Adm. Code 856) because the Agency lacks the

statutory authority to require inspection and permit fees to be paid subsequent to the quarter for which the fees are applicable.

Agency Response: Failure to Respond.

Joint Committee Response: July 25, 1985, no further action.

FARM DEVELOPMENT AUTHORITY, ILLINOIS

Rules of the Illinois Farm Development Authority (8 Ill. Adm. Code 1400)

Emergency Rule Published in the Illinois Register, May 31, 1985 (9 Ill. Reg. 8186), effective May 16, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12411).

Recommendation to Emergency Rulemaking: The Joint Committee suggested to the Illinois Farm Development Authority that it seek legislation to amend the Emergency Farm Credit Allocation Act to clarify the manner in which the Authority may require a recipient of a payment adjustment, pursuant to the Operating Interest Adjustment Loan Program, to secure the payment adjustment.

Agency Response: Agree. Response received by the Joint Committee August 9, 1985.

Joint Committee Response: December 11, 1985, no further action.

FINANCIAL INSTITUTIONS, DEPARTMENT OF

Illinois Credit Union Act (38 Ill. Adm. Code 190.5)

Emergency Rule Originally Published in Illinois Register, September 20, 1985 (9 Ill. Reg. 14378), effective September 11, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18608).

Objection 1 to Emergency Rulemaking: The Joint Committee objected to Section 190.5 of the Department's emergency rulemaking regarding Illinois Credit Unions because no threat to the public interest, safety or welfare exists to require the use of emergency rulemaking under Section 5.02 of the Illinois Administrative Procedure Act.

Objection 2 to Emergency Rulemaking: The Joint Committee objected to Section 190.5 of the Department's emergency rulemaking regarding Illinois Credit Unions because the Department lacks the statutory authority under the Illinois Credit Union Act (Ill. Rev. Stat. 1983, ch. 17, par. 4401 et seq.) to require a credit union to obtain approval from the Department prior to loaning to, investing in, or participating in credit union service organizations.

Agency Response: Pending.

Joint Committee Response: Pending.

FIRE MARSHAL, OFFICE OF THE STATE

Storage, Transportation, Sale and Use of Gasoline and Volatile Oils; Gasoline and Volatile Oils - General Rules (41 Ill. Adm. Code 180.20)

Emergency Rule Published in Illinois Register, December 21, 1984 (8 Ill. Reg. 24744) effective December 7, 1984, for a maximum of 150 days. This Joint Committee action from the meeting of February 27, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3369).

Objection to Emergency Rulemaking: The Joint Committee objected to Section 180.20 of this emergency rule of the Office of the State Fire Marshal because the rule fails to meet the requirements of Section 5.02 of the Illinois Administrative Procedure Act in that the rule contains provisions not required to meet the emergency.

Agency Response: Failure to Respond.

Joint Committee Response: July 25, 1985, no further action.

LABOR, DEPARTMENT OF

Carnival and Amusement Ride Inspection Law (56 Ill. Adm. Code 1600)

Emergency Rule Published in the Illinois Register, May 15, 1985 (9 Ill. Reg. 7176), effective May 3, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12438).

Recommendation 1 to Emergency Rulemaking: The Joint Committee suggested to the Department of Labor that it seek legislation granting it the authority to regulate the operation of water slides.

Recommendation 2 to Emergency Rulemaking: The Joint Committee suggested to the Department of Labor that it seek legislation granting it the authority to regulate "Dry Type Slides."

Agency Response: Agree. Response received by the Joint Committee October 4, 1985.

Joint Committee Response: November 14, 1985, Joint Committee monitor legislation.

LABOR RELATIONS BOARD, ILLINOIS EDUCATIONAL

Fair Share Fee Objections (80 Ill. Adm. Code 1125)

Emergency Rule Originally Published in Illinois Register, August 23, 1985 (9 Ill. Reg. 12873), effective August 8, 1985 for a maximum of 150 days. This

Joint Committee action from the meeting of November 14, 1985 was published in the Illinois Register, November 29, 1985 (9 Ill. Reg. 18604).

Objection to Emergency Rulemaking: The Joint Committee objected to the Board's emergency rulemaking entitled "Fair Share Fee Objections" (80 Ill. Adm. Code 1125) because any emergency situation which may exist has been created solely by the failure of the Board to act in a timely fashion.

Agency Response: Pending.

Joint Committee Response: Pending.

PUBLIC AID, DEPARTMENT OF

Medical Payment (AFDC-MIANG; GA and Functions and Duties of Hospital Services Procurement Advisory Board) (89 Ill. Adm. Code 140)

Emergency Rule Published in Illinois Register, January 11, 1985 (9 Ill. Reg. 407) effective January 1, 1985, for a maximum of 150 days. This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4923).

Recommendation to Emergency Rulemaking: The Joint Committee suggested to the Department Public Aid that it seek legislation amending the "Open Meetings Act" (Ill. Rev. Stat. 1984 Supp., ch. 102, par. 42(b)) to clarify the additional situations under which the Health Services Procurement Advisory Board may conduct closed sessions.

Agency Response: Agree. Response received by the Joint Committee May 24, 1985.

Joint Committee Response: June 19, 1985, no further action.

Medical Assistance Programs (Income Standards) (89 Ill. Adm. Code 120.30)

Emergency Rule Published in Illinois Register, January 18, 1985 (9 Ill. Reg. 830) effective January 3, 1985, for a maximum of 150 days. This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4918).

Objection to Emergency Rulemaking: The Joint Committee objected to the emergency amendment of Section 120.30 of the Medical Assistance Programs rules of the Department of Public Aid because, contrary to the requirement of Section 5.02 of the Illinois Administrative Procedure Act, the amendment was not necessitated by a threat to the public interest, safety or welfare.

Agency Response: Agreement to Modify, published May 17, 1985 (9 Ill. Reg. 7231). Response received by the Joint Committee May 1, 1985.

Joint Committee Response: June 19, 1985, no further action.

Medical Payment (Methodology for Reimbursing Support Costs of Nursing Homes) (89 Ill. Adm. Code 140.561)

Emergency Rule Published in the Illinois Register, July 19, 1985 (9 Ill. Reg. 11403), effective June 27, 1985. This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14105).

Objection to Emergency Rulemaking: The Joint Committee objected to the emergency rulemaking of the Department of Public Aid which amends Section 140.561 concerning the computation of reimbursement for support costs of long term care facilities because, contrary to the requirements of section 5.02 of the Illinois Administrative Procedure Act, any emergency which may exist has been created solely by the failure of the Department of Public Aid to promulgate rules in a timely fashion.

Agency Response: Refusal to Modify or Withdraw. Response received by the Joint Committee October 31, 1985.

Joint Committee Response: December 11, 1985, no further action.

SECRETARY OF STATE

Public Library Construction Grants (23 Ill. Adm. Code 3060)

Emergency Rule Published as adopted in the Illinois Register, April 5, 1985 (9 Ill. Reg. 4560), effective March 20, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of June 19, 1985 was published in the Illinois Register, June 19, 1985 (9 Ill. Reg. 10349).

Objection 1 to Emergency Rulemaking The Joint Committee objected to the Secretary of State's emergency rulemaking entitled "Public Library Construction Grants" because any emergency that may exist has been created solely by the Secretary's failure to proceed in a timely fashion in amending its rules.

Objection 2 to Emergency Rulemaking The Joint Committee objected to the Secretary of State's emergency rulemaking because portions of the rulemaking are not related to the existence of the purported emergency.

Agency Response: Refusal. Response received by the Joint Committee September 18, 1985.

Joint Committee Response: October 16, 1985, no further action.

Repeal - Public Library Construction Grants (23 Ill. Adm. Code 3060)

Emergency Rule Published as adopted in Illinois Register, April 5, 1985 (9 Ill. Reg. 4548), effective March 20, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of June 19, 1985 was published in the Illinois Register, July 5, 1985 (9 Ill. Reg. 10346).

Objection 1 to Emergency Rulemaking: The Joint Committee objected to the Secretary of State's emergency repeal of the Secretary's rules governing Public Library Construction Grants because any emergency that may exist has been created solely by the Secretary's failure to proceed in a timely fashion in amending its rules.

Objection 2 to Emergency Rulemaking: The Joint Committee objected to the Secretary of State's emergency rulemaking because portions of the rulemaking are not related to the existence of the purported emergency.

Agency Response: Refusal. Response received by the Joint Committee September 18, 1985.

Joint Committee Response: October 16, 1985, no further action.

Rulemaking (1 Ill. Adm. Code 100.335(a)(1))

Emergency Rule Published in Illinois Register, January 11, 1985 (9 Ill. Reg. 427) effective January 1, 1985, for a maximum of 150 days. This Joint Committee action from the meeting of February 27, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3391).

Objection to Emergency Rulemaking: The Joint Committee objected to Section 100.335(a)(1) of the rules of the Secretary of State entitled "Rulemaking" (1 Ill. Adm. Code 100) because the Secretary of State lacks the statutory authority to include a requirement that a repeal date cannot be more than two (2) years after the effective date of the rulemaking in which the automatic repeal date was incorporated into the rule.

Agency Response: Failure to Respond.

Joint Committee Response: July 25, 1985, no further action.

TREASURER

Disbursement of Funds -- Special Handling (74 Ill. Adm. Code 710)

Emergency Rule Published in the Illinois Register, April 19, 1985 (9 Ill. Reg. 5384), effective April 5, 1985 for a maximum of 150 days. This Joint Committee action from the meeting of June 19, 1985 was published in the Illinois Register, July 5, 1985 (9 Ill. Reg. 10352).

Objection to Emergency Rulemaking: The Joint Committee objected to the State Treasurer's April 5, 1985 emergency rulemaking entitled "Disbursement of Funds--Special Handling" (74 Ill. Adm. Code 710) because no emergency situation exists which requires use of the emergency rulemaking procedures of Section 5.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal. Response received by the Joint Committee June 27, 1985.

Joint Committee Response: August 28, 1985, no further action.

1985 OBJECTIONS AND RECOMMENDATIONS TO PEREMPTORY RULEMAKING

EMPLOYMENT SECURITY, DEPARTMENT OF

Supplemental Federal Benefits (56 Ill. Adm. Code 2875.40(a) and 2875.40(b))

Peremptory Rule Published in the Illinois Register, April 26, 1985 (9 Ill. Reg. 5749), effective April 15, 1985. This Joint Committee action from the meeting of August 28, 1985 was published in the Illinois Register, September 13, 1985 (9 Ill. Reg. 14099).

Objection 1 to Peremptory Rulemaking: The Joint Committee objected to the peremptory rule amending Section 2875.40(a) of the Department of Employment Security's rule entitled Supplemental Federal Benefits (56 Ill. Adm. Code 2875) because the Department's use of the peremptory rulemaking procedure was not required as a result of federal law or federal rules and regulations and, thus, violated Section 5.03 of the Illinois Administrative Procedure Act.

Objection 2 to Peremptory Rulemaking: The Joint Committee objected to the peremptory rule amending Section 2875.40(b) of the Department of Employment Security's rule entitled "Supplemental Federal Benefits" (56 Ill. Adm. Code 2875) because notice of the rulemaking was not filed within 30 days after a change in the rule was required as a result of federal law, and because conditions did not preclude discretion by the agency as to the content of the rule it was required to adopt, in violation of Section 5.03 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw. Response received by the Joint Committee November 22, 1985.

Joint Committee Response: Pending.

1985 OBJECTIONS AND RECOMMENDATIONS ISSUED PURSUANT
TO THE FIVE YEAR REVIEW

ALL STATE AGENCIES

Rulemaking for Freedom of Information Rules - Recommendation

The basis for this review is the RECORDS AND INFORMATION MANAGEMENT Five Year Report which was discussed at the Joint Committee meeting of January 17, 1985. This action was published in the Illinois Register, February 8, 1985 (9 Ill. Reg. 1936).

Recommendation 1: At its meeting on January 17, 1985, the Joint Committee recommended that all agencies subject to the Illinois Administrative Procedure Act adopt the model Section 4.01 rules developed by the Office of the Governor to implement the Illinois Freedom of Information Act.

Recommendation 2: The Joint Committee further recommended that all agencies subject to the Illinois Administrative Procedure Act undertake rulemaking pursuant to Section 5.01 of the IAPA to fully implement all requirements of the Illinois Freedom of Information Act not covered by the Model Section 4.01 rules.

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

The basis for this review is the RECORDS AND INFORMATION MANAGEMENT Five Year Review Report which was discussed at the Joint Committee meeting of January 17, 1985.

Recommendation: The Joint Committee suggested that the Department of Central Management Services undertake an examination of the "State of Illinois Forms Management Manual" for the purpose of determining whether this manual contains any policies and procedures which should be promulgated as rules pursuant to the requirements of Section 5.02 of the Illinois Administrative Procedure Act.

Agency Response: Disagree.

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

The basis for this review is the RECORDS AND INFORMATION MANAGEMENT Five Year Review Report which was discussed at the Joint Committee meeting of January 17, 1985.

Objection 1: The Joint Committee objected to Section 430.9 of the "Public Information" rules of the Department of Children and Family Services because it fails to delineate the standards and criteria used by the Director in evaluating an appeal of a decision of non-disclosure.

Objection 2: The Joint Committee objected to Section 430.10 of the Department of Children and Family Services' "Public Information" rules

because the term "reasonable fees" is vague and does not adequately inform the affected public of the charges being imposed by the Department for retrieving, assembly, copying, and presenting requested information.

Agency Response: Agreement to modify.

Published as Adopted: September 21, 1984 (8 Ill. Reg. 17275).

CONSERVATION, DEPARTMENT OF

The basis for this review is the RECORDS AND INFORMATION MANAGEMENT Five Year Review Report which was discussed at the Joint Committee meeting of January 17, 1985.

Objection: The Joint Committee objected to the rules of the Department of Conservation on "Access to Archaeological Files" because the Department lacks the statutory authority to restrict access to archaeological data.

Recommendation: The Joint Committee suggested that the Department of Conservation seek legislation modifying the Illinois Historic Preservation Act to specifically grant the Department the authority to restrict access to archaeological data.

Agency Response: The Department disagreed, but repealed these rules December 14, 1984 (8 Ill. Reg. 24116).

CRIMINAL JUSTICE INFORMATION AUTHORITY, ILLINOIS LAW ENFORCEMENT, DEPARTMENT OF

The basis for this review is the RECORDS AND INFORMATION MANAGEMENT Five Year Review Report which was discussed at the Joint Committee meeting of January 17, 1985.

Recommendation: The Joint Committee suggested to the Illinois Criminal Justice Information Authority and the Department of Law Enforcement that they meet and decide upon one time limit for the filing of appeals and that time limitation be placed on the rules of each agency.

Agency Response: Agree.

Published as Adopted: Department of Law Enforcement, March 8, 1985 (9 Ill. Reg. 2945).

LOCAL RECORDS COMMISSION OF COOK COUNTY

The basis for this review is the RECORDS AND INFORMATION MANAGEMENT Five Year Review Report which was discussed at the Joint Committee meeting of January 17, 1985. This action was published in the Illinois Register, February 8, 1985 (9 Ill. Reg. 1924).

Recommendation to Commence Rulemaking: The Joint Committee voted to inform the Local Records Commission of Cook County that it is required to promulgate rules pursuant to the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond.

SECRETARY OF STATE

Local Records Commission (44 Ill. Adm. Code 4000.60(b), 4000.60(c))

The basis for this review is the RECORDS AND MANAGEMENT Five Year Review Report which was discussed at the Joint Committee meeting of January 17, 1985. This action was published in the Illinois Register, February 8, 1985 (9 Ill. Reg. 1942).

Objection 1: The Joint Committee objected to Section 4000.60(b) of the rules of the Local Records Commission because this Section incorporates by reference the specifications of the American National Standards Institute in contravention of the requirements of Section 6.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 4000.60(c) of the rules of the Local Records Commission because this section does not incorporate by reference the standards of the American National Standards Institute in the form required by Section 6.02 of the Illinois Administrative Procedure Act.

Agency Response: Agreement to modify.

Published as Adopted: Amendment proposed July 12, 1985 (9 Ill. Reg. 10635), but not yet adopted.

State Records Commission (44 Ill. Adm. Code 4100.10(f), 4100.60(b), and 4100.60(c))

The basis for this review is the RECORDS AND INFORMATION MANAGEMENT Five Year Review Report which was discussed at the Joint Committee meeting of January 17, 1985. This action was published in the Illinois Register, February 8, 1985 (9 Ill. Reg. 1946).

Objection 1: The Joint Committee objected to Section 4100.10(f) of the Regulations of the State Records Commission because the Section is vague and fails to set forth the standards used by the Commission in determining whether to review, modify or revoke an approved records disposal schedule, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 4100.60(b) of the rules of the State Records Commission because this section incorporates by reference the American National Standards Institute film standards in contravention of the requirements of Section 6.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Section 4100.60(c) of the rules of the State Records Commission because this section incorporates by reference certain material in contravention of the "specified date" requirements of Section 6.02 of the Illinois Administrative Procedure Act.

Agency Response: Agreement to modify.

Published as Adopted: Amendment proposed July 26, 1985 (9 Ill. Reg. 11578), but not yet adopted.

1985 OBJECTIONS AND RECOMMENDATIONS TO EXISTING RULES

COMMERCE COMMISSION, ILLINOIS

Pole Attachment Agreements Between CATV Companies and Public Utilities (83 Ill. Adm. Code 315.20)

Proposal Originally Published in Illinois Register, February 24, 1984 (8 Ill. Reg. 2328). This Joint Committee action from the meeting of March 19, 1985 was published in the Illinois Register, April 12, 1985 (9 Ill. Reg. 4885). Rules published as adopted February 22, 1985 (9 Ill. Reg. 2471), effective February 13, 1985.

Objection to Existing Rule: The Joint Committee objected to Section 315.20 of the existing rule of the Illinois Commerce Commission entitled "Pole Attachment Agreements Between CATV Companies and Public Utilities" because the rule was substantively changed after the commencement of the second notice period, in violation of Section 5.01(b) of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, not published. Response received by the Joint Committee May 28, 1985.

Joint Committee Response: July 25, 1985, no further action.

Rules of Practice (83 Ill. Adm. Code 200.90 and 200.580(d))

Proposal Originally Published in Illinois Register, April 13, 1984 (8 Ill. Reg. 4728). This Joint Committee action at the meeting of April 16, 1985 was published in the Illinois Register, May 3, 1985 (9 Ill. Reg. 6438). Rules published as adopted April 26, 1985 (9 Ill. Reg. 5621), effective April 15, 1985.

Objection 1 to Existing Rules: The Joint Committee objected to Section 200.90 of the rules of the Illinois Commerce Commission entitled "Rules of Practice" (83 Ill. Adm. Code 200) because that rule permits the unauthorized practice of law, in violation of "An Act to revise the laws in relation to attorneys and counselors." (Ill. Rev. Stat. 1983, ch. 13, par. 1).

Objection 2 to Existing Rules: The Joint Committee objected to Section 200.90 of the rules of the Illinois Commerce Commission entitled "Rules of Practice" (89 Ill. Adm. Code 200.90) because that rule fails to provide the standards used by the Commission to determine whether or not to allow attorneys admitted to practice in states other than Illinois to appear and practice before the Commission, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3 to Existing Rules: The Joint Committee objected to Section 200.580(d) of the rules of the Illinois Commerce Commission entitled "Rules of Practice" (89 Ill. Adm. Code 200.580(d)) because the rules fail to provide the standards used by the Commission to determine whether corrections will be

made to transcripts in Commission hearings, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Recommendation to Existing Rules: The Joint Committee recommended to the Illinois Commerce Commission that it initiate rulemaking within 60 days to amend Part 200 of the Commission's rules entitled "Rules of Practice" (80 Ill. Adm. Code 200) in order to implement the agreements the Commission has made to provide standards for the exercise of its discretion.

Agency Response to Objections: Refusal to Modify or Withdraw (Objection 1), Agreement to Modify (Objection 2), and Agreement to promulgate rules (Objection 3). Response received by the Joint Committee September 19, 1985.

Agency Response to Recommendation: Failure to Respond.

Joint Committee Response: October 16, 1985, recommendation to request timetable to monitor rulemaking.

COMMUNITY COLLEGE BOARD, ILLINOIS

Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501)

Proposal Originally Published in Illinois Register, November 30, 1984 (8 Ill. Reg. 23110). This Joint Committee action from the meeting of April 16, 1985 was published in the Illinois Register, May 3 1985 (9 Ill. Reg. 6447). Rules published as adopted June 21, 1985 (9 Ill. Reg. 9470).

Objection to Existing Rule: The Joint Committee objected to Part 1501 of the existing rules of the Illinois Community College Board because, contrary to Section 2-17 of the Illinois Public Community College Act, the Board is without rules to establish the standards by which Business Assistance Grants shall be awarded.

Agency Response: Failure to Respond.

Joint Committee Response: Pending.

ENVIRONMENTAL PROTECTION AGENCY

This Joint Committee action from the meeting of September 19, 1985 was published in the October 4, 1985 Illinois Register (9 Ill. Reg. 15121 and 15124).

Objection to Complaint Review: The Joint Committee objected to the Environmental Protection Agency's use of its draft rules entitled "Procedures To Be Followed In The Performance Of Annual Inspections Of Motor Vehicle Exhaust Emissions" because the draft rules relied upon by the contractor were subject to change by the Agency thus preventing the contractor from knowing the exact conditions which must be met in the performance of the contract.

Recommendation 1 to Complaint Review: The Joint Committee suggested to the Environmental Protection Agency that it initiate rulemaking to promulgate its "Procedures To Be Followed In The Performance Of Annual Inspections Of Motor Vehicle Exhaust Emissions" pursuant to Section 5.01 of the Illinois Administrative Procedure Act in order to ensure that the public is given notice and an opportunity to comment upon these rules.

Complaint Review Recommendation 2: The Joint Committee suggested to the Environmental Protection Agency that it initiate rulemaking to promulgate the Agency's policies concerning the grievance and notice of non-compliance procedures to be used by the Agency in implementing the vehicle emission testing program pursuant to the Illinois Administrative Procedure Act in order to ensure that the public is given notice and an opportunity to comment.

Agency Response: Failure to Respond.

Joint Committee Response: Pending.

LABOR RELATIONS BOARD, ILLINOIS EDUCATIONAL

Hearing Procedures (80 Ill. Adm. Code 1105)

Proposal Originally Published in the Illinois Register, January 18, 1985 (9 Ill. Reg. 603). This Joint Committee action from the meeting of July 25, 1985 was published in the Illinois Register, August 9, 1985 (9 Ill. Reg. 12435). Rules published as adopted June 21, 1985 (9 Ill. Reg. 9491), effective June 11, 1985.

Objection to Existing Rule: The Joint Committee objected to Sections 1105.40 and 1105.150 of the Illinois Educational Labor Relations Board's existing rules entitled "Hearing Procedures" because, during its promulgation, these rules were substantively changed after the commencement of the second notice period, in violation of Section 5.01(b) of the Illinois Administrative Procedure Act.

Agency Response: Failure to respond.

Joint Committee Response: December 11, 1985, no further action.

Representation Proceedings (80 Ill. Adm. Code 1110)

Proposal Originally Published in Illinois Register, May 25, 1984 (8 Ill. Reg. 7152). This Joint Committee action from the meeting of January 17, 1985 was published in the Illinois Register, February 1, 1985 (9 Ill. Reg. 1488). Rules published as adopted September 7, 1984 (8 Ill. Reg. 16300), effective August 27, 1984.

Objection to Existing Rule: The Joint Committee objected to the existing rules of the Illinois Educational Labor Relations Board entitled "Representation Proceedings" because the Board's adopted rules included substantive changes made after the commencement of the second notice period which were not made

in accordance with the requirements of Sections 5.01(b) and 7.06(d) of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published May 10, 1985 (9 Ill. Reg. 6876). Response received by the Joint Committee April 26, 1985.

Joint Committee Response: May 14, 1985, no further action.

LABOR RELATIONS BOARD, ILLINOIS LOCAL
LABOR RELATIONS BOARD, ILLINOIS STATE

General Procedures (80 Ill. Adm. Code 1200)

Proposal Originally Published in Illinois Register, September 21, 1984 (8 Ill. Reg. 17212). This Joint Committee action from the meeting of February 27, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3406). Rules published as adopted, February 1, 1985 (9 Ill. Reg. 1846), effective January 25, 1985.

Objection 1 to Existing Rules: The Joint Committee objected to Section 1200.30(d) of the Illinois State and Local Labor Relations Boards' rules entitled "General Procedures" (80 Ill. Adm. Code 1200.30(d)) because the "good cause" standard used by the hearing officer or the Boards in determining whether extensions of time will be granted is not stated "as precisely and clearly as practicable under the conditions" in order to inform those persons affected, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2 to Existing Rules: The Joint Committee objected to Section 1200.50 of the rules of the Illinois State and Local Labor Relations Boards entitled "General Procedures" (80 Ill. Adm. Code 1200.50) because the rule fails to reflect the Boards' actual policy regarding orders for the transcription of hearing records.

Objection 3 to Existing Rules: The Joint Committee objected to Section 1200.70 of the rules of the Illinois State and Local Labor Relations Boards entitled "General Procedures" (80 Ill. Adm. Code 1200) because that rule permits the unauthorized practice of law, in violation of "An Act to revise the laws in relation to attorneys and counselors."

Objection 4 to Existing Rules: The Joint Committee objected to Section 1200.90(e) of the rules of the Illinois State and Local Labor Relations Boards entitled "General Procedures" (80 Ill. Adm. Code 1200.90(e)) because this rule fails to reflect the Boards' actual policy regarding the appearance of Board employees at Board proceedings.

Objection 5 to Existing Rules: The Joint Committee objected to Sections 1200.120 and 1200.140 of the rules of the Illinois State and Local Labor Relations Boards entitled "General Procedures" (80 Ill. Adm. Code 1200.120, 1200.140) because the adoption of these rules circumvented the public notice and comment provisions of Section 5.01 of the Illinois Administrative Procedure Act.

Objection 6 to Existing Rules: The Joint Committee objected to the existing rules of the Illinois State Local Labor Relations Boards entitled "General Procedures" (80 Ill. Adm. Code 1200) because the Boards violated Section 100.530 of the Secretary of State's rules in that the Notice of Adopted Rules published in the February 8, 1985 issue of the Illinois Register did not include a list of all of the changes between the proposed and adopted versions of the rules.

Objection 7 to Existing Rules: The Joint Committee objected to the existing rules of the Illinois State and Local Labor Relations Boards entitled "General Procedures" (80 Ill. Adm. Code 1200) because the rules were adopted in violation of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published May 3, 1985 (9 Ill. Reg. 6345). Response received by the Joint Committee April 24, 1985.

Joint Committee Response: June 19, 1985, no further action.

Impasse Resolution (80 Ill. Adm. Code 1230)

Proposal Originally Published in Illinois Register, September 21, 1984 (8 Ill. Reg. 17214). This Joint Committee action from the meeting of February 27, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3419). Rules published as adopted, February 8, 1985 (9 Ill. Reg. 1857), effective January 25, 1985.

Objection 1 to Existing Rules: The Joint Committee objected to Section 1230.70(d) of the rules of the Illinois State and Local Labor Relations Boards entitled "Impasse Resolution" because that provision conflicts with Section 13 of the Illinois Public Labor Relations Act.

Objection 2 to Existing Rules: The Joint Committee objected to the existing rules of the Illinois State and Local Labor Relations Boards entitled "Impasse Resolution" because the Boards violated Section 100.530 of the Secretary of State's rules in that the Notice of Adopted Rules published in the February 8, 1985 issue of the Illinois Register did not include a list of all of the changes between the proposed and adopted versions of the rules.

Objection 3 to Existing Rules: The Joint Committee objected to the existing rules of the Illinois State and Local Labor Relations Boards entitled "Impasse Resolution" (80 Ill. Adm. Code 1230) because the rules were adopted in violation of Section 5.01 of the Illinois Administrative Procedure Act.

Recommendation 1 to Existing Rules: The Joint Committee suggested that the Illinois State and Local Labor Relations Boards seek legislation to amend the Illinois Public Labor Relations Act to grant it the authority to require all employers to file copies of collective bargaining agreements with the Boards.

Recommendation 2 to Existing Rules: The Joint Committee suggested that the Illinois State and Local Labor Relations Boards seek legislation to amend Section 13 of the Illinois Public Labor Relations Act to delete or change the statutory deadline for issuance of a written report by a fact-finder.

Agency Response to Objection: Refusal to Modify or Withdraw, published May 31, 1985 (9 Ill. Reg. 6363). Response received by the Joint Committee April 24, 1985.

Agency Response to Recommendation: Failure to Respond.

Joint Committee Response: June 19, 1985, no further action.

Representation Proceedings (80 Ill. Adm. Code 1210.100(f))

Proposal Originally Published in Illinois Register, August 31, 1984 (8 Ill. Reg. 15994). This Joint Committee action from the meeting of February 21, 1985 was published in the Illinois Register, March 8, 1985 (9 Ill. Reg. 3012). Rules published as adopted, February 8, 1985 (9 Ill. Reg. 1870), effective January 25, 1985.

Objection 1 to Existing Rules: The Joint Committee objected to Section 1210.100(f) of the rules of the Illinois State and Local Labor Relations Boards entitled "Representation Proceedings" (80 Ill. Adm. Code 1210) because that rule fails to include the standards used by the hearing officer in determining whether prehearing conferences or statements of position will "expedite the procedure," and therefore will be scheduled or requested by the hearing officer, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2 to Existing Rules: The Joint Committee objected to the existing rules of the Illinois State and Local Labor Relations Boards entitled "Representation Proceedings" (80 Ill. Adm. Code 1210) because the Boards violated Section 100.530 of the Secretary of State's rules in that the Notice of Adopted Rules published in the February 8, 1985 issue of the Illinois Register did not include a list of all the changes between the proposed and adopted versions of the rules.

Objection 3 to Existing Rules: The Joint Committee objected to the existing rules of the Illinois State and Local Labor Relations Boards entitled "Representation Proceedings" (80 Ill. Adm. Code 1210) because the rules were adopted in violation of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published May 3, 1985 (9 Ill. Reg. 6373). Response received by the Joint Committee April 24, 1985.

Joint Committee Response: June 19, 1985, no further action.

Unfair Labor Practice Proceedings (80 Ill. Adm. Code 1220)

Proposal Originally Published in Illinois Register, August 31, 1984 (8 Ill. Reg. 15996). This Joint Committee action from the meeting of February 27, 1985 was published in the Illinois Register, March 15, 1985 (9 Ill. Reg. 3433). Rules published as adopted, February 8, 1985 (9 Ill. Reg. 1898), effective January 25, 1985.

Objection 1 to Existing Rules: The Joint Committee objected to Section 1220.40(b)(2) of the rules of the Illinois State and Local Labor Relations Boards entitled "Unfair Labor Practice Proceedings" (80 Ill. Adm. Code 1220.40(b)(2) because the rule does not include the standards to be used by the Board or its designated representative in determining whether certain evidence must be submitted by a respondent, in violation of Sections 3.09 and 4.02 of the Illinois Administrative Procedure Act.

Objection 2 to Existing Rules: The Joint Committee objected to the existing rules of the Illinois State and Local Labor Relations Boards entitled "Unfair Labor Practice Proceedings" (80 Ill. Adm. Code 1220) because the Boards violated Section 100.530 of the Secretary of State's rules in that the Notice of Adopted Rules published in the February 8, 1985 issue of the Illinois Register did not include a list of all of the changes between the proposed and adopted versions of the rule.

Objection 3 to Existing Rules: The Joint Committee objected to the existing rules of the Illinois State and Local Labor Relations Boards entitled "Unfair Labor Practice Proceedings" (80 Ill. Adm. Code 1220) because the rules were adopted in violation of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, published May 3, 1985 (9 Ill. Reg. 6384). Response received by the Joint Committee April 24, 1985.

Joint Committee Response: June 19, 1985, no further action.

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES, DEPARTMENT OF

Recipient Rights (59 Ill. Adm. Code 111)

Proposal Originally Published in Illinois Register, March 9, 1984 (8 Ill. Reg. 2798). This Joint Committee action at the meeting of January 17, 1985 was published in the Illinois Register, February 1, 1985 (9 Ill. Reg. 1469). Rules published as adopted November 9, 1984 (8 Ill. Reg. 22086), effective November 1, 1984.

Recommendation to Existing Rule: The Joint Committee suggested that the Department of Mental Health and Developmental Disabilities develop and promulgate as rules the standards which govern the discretion of the regional administrator to provide and alternative treatment/habilitation program to a recipient.

Agency Response: Failure to Respond.

Joint Committee Response: Pending.

SECTION THREE
LEGISLATIVE PACKAGE FOR 1986

Each year the Joint Committee presents its legislative agenda to the General Assembly for its consideration. In addition to its other oversight functions, the Committee develops and introduces its own legislation as well as suggesting legislation to agencies or standing committees of the General Assembly. These bills are the result of problems with specific rules or policies encountered by the Committee, which it has determined will best be remedied through legislation. The legislative activities of the Joint Committee enhance the oversight process by including not only its members but those of the full body of the General Assembly.

Bills Developed for Consideration During 1986

The Joint Committee's agenda for 1986 contains 33 proposed pieces of legislation. Each bill is the result of action taken by the Committee during the last calendar year. For your convenience, the proposed bills for 1986 have been numbered and divided into three general categories:

- (1) IAPA bill - This bill amends the Illinois Administrative Procedure Act by further clarifying the rulemaking process.
- (2) Legislative concepts expected to be supported by agencies - Included in this category are bill which the Committee anticipates will have agency support. As was the case in 1985, it is anticipated that these bills will be included in one or more omnibus Joint Committee bill. (Bills #1 - #21)
- (3) Mandated requirements - Bills included in this category will provide a legislative mandate requiring agencies to adopt rules or standards. It is anticipated that these bills will be included in an omnibus Joint Committee bill. (Bills #22 - #26)
- (4) Other substantive bills - Bills included in this category have Joint Committee support, but the Committee anticipates agency opposition. (Bills #27 - #32)

IAPA BILL

Background

The Joint Committee on Administrative Rules is required by law to act on proposed rules within 45 days after the State agency submits notice to the Committee. In many cases, due to the scheduling of Joint Committee meetings, this leads to a situation where less than one week is available for the review of the rules. Because many rulemakings which the Joint Committee reviews are complex, and often result in a great deal of public comment and controversy, more time is sometimes necessary for a complete review. Currently, this is done by agreement between the agency and the Joint Committee. This bill will formalize the practice and allow the agency and the Joint Committee to extend the review period to 90 days, which will allow sufficient time for an adequate review of all proposed rules.

Summary

Amends Section 5.01 and Section 7.06 of the Illinois Administrative Procedure Act (Ill. Rev. Stat 1983, ch. 127, par. 1001 et seq., as amended) to provide for the extension of the 45 day second notice period for a period not to exceed an additional 45 days. Extension shall be based upon the mutual agreement of the Joint Committee on Administrative Rules and the agency proposing rules. Effective immediately.

Legislative Drafting Request

Summary

Amends Section 5.01 and Section 7.06 of the Illinois Administrative Procedure Act (Ill. Rev. Stat 1983, ch. 127, par. 1001 et seq., as amended) to provide for the extension of the 45 day second notice period for a period not to exceed an additional 45 days. Extension shall be based upon the mutual agreement of the Joint Committee on Administrative Rules and the agency proposing rules. Effective immediately.

Drafting Notes:

Section 1. Amend Section 5.01 as follows:

(ch. 127, par. 1005.01)

* * * * *

(b) provide ~~up to 45 days~~ additional notice of the proposed rulemaking to the Joint Committee on Administrative Rules, such notice period to be called the second notice period. The second notice period shall commence on the day written notice is received by the Joint Committee, and shall expire 45 days thereafter unless prior to that time the agency and the Joint Committee have agreed to extend the second notice period beyond 45 days, for a period not to exceed an additional 45 days; or, the agency has ~~shall have~~ received a statement of objection from the Joint Committee, or notification from the Joint Committee that no objection will be issued. The written notice to the Joint Committee shall include: (1) the text and location of any changes made to the proposed rulemaking during the first notice period; (2) for all proposed rules and proposed amendments to rules, a final regulatory flexibility analysis, which shall contain a summary of issues raised by small businesses during the first notice period; and a description of actions taken on any alternatives to the proposed rule suggested by small businesses during the first notice period, including reasons for rejecting any alternatives not utilized; and (3) if written request has been made by the Joint Committee within 30 days after initial notice appears in the Illinois Register pursuant to Paragraph (1) of this Section, an analysis of the economic and budgetary effects of the proposed rulemaking. After commencement of the second notice period, no substantive change may be made to a proposed rulemaking unless it is made in response to an objection or suggestion of the Joint Committee. The agency shall also send a copy of the final regulatory flexibility analysis to each of the small businesses which have presented views or comments on the proposed rulemaking during the first notice period and to any interested person who requests a copy during the first notice period. The agency may charge a reasonable fee for providing such copies to cover postage and handling costs.

(c) after the expiration of ~~45 days~~, the second notice period, after notification from the Joint Committee that no objection will be issued, or after response by the agency to a statement of objections issued by the Joint Committee, which ever is applicable, the agency shall file, pursuant to Section 6 of this Act, a certified copy of each rule, modification, or repeal of

any rule adopted by it, which shall be published in the Illinois Register. Each rule hereafter adopted under this Section is effective upon filing, unless a later effective date is required by statute or is specified in the rule.

* * * * *

Section 2. Amend Section 7.06 as follows:

(ch. 127, par. 1007.06)

* * * * *

(c) If within ~~45--days,~~ the second notice period, ~~after--notice--of~~
~~proposed--rulemaking--has--been--received--by--the--Joint--Committee,~~ the Joint
Committee certifies its objections to the issuing agency then that agency shall
within 90 days of receipt of the statement of objection:

* * * * *

Section 3. This Act shall take effect upon becoming a law.

999:ldraft

BILL 1

Background

During the review of the Department of Children and Family Services' rules regarding the Child Care Act of 1969 (89 Ill. Adm. Code 377) by the Joint Committee on Administrative Rules, it was discovered that the Department was not enforcing a statutory requirement regarding the release of children from child day care facilities. Section 7.01 of the Act requires child care facilities to retain a list which designates the names of persons to whom the facility can expect to usually release custody of the child (the primary list) and person to whom the facility can expect to occasionally release custody of the child (the contingency list). Section 7.1 of the Act requires that both the primary and contingency lists specify the manner in which children were to be released to persons on each list. Because the Department contends that requiring that the primary list contain this information places an unnecessary administrative burden on child care facilities due to the fact that the primary list contains the names of persons to whom the facility can usually expect to release custody of the child, such as the parent or grandparent, the rules do not include this requirement. The contingency list, however, contains the names of persons to whom the facility can expect to occasionally release custody of the child and therefore, the Department's rules include this requirement for that list.

On May 14, 1985, the Joint Committee recommended that the Department of Children and Family Services amend the Child Care Act to delete the requirement that a child care facility have on file records designating the manner in which children are to be released from its primary list. This proposal amends Section 7.1 of the Act to relieve child care facilities of the requirement that the primary list delineate the manner in which children may be released to those on that list. This requirement remains on the contingency list which stipulates that the facility records contain both the identity of the person to whom the child was released and the manner in which the child was released.

Summary

Amend Section 7.1 of the Child Care Act (Ill. Rev. Stat. 1983, ch. 23, par. 2211 et seq.) to delete the requirement that a child care facility have on file records designating the manner in which children are to be released to persons on the primary release list. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 23, par. 2217.1)

Amends the Child Care Act. Changes the information required of a guardian in relation to the release of custody of a child by a child care facility. Effective immediately.

LR88407572BDjs

A BILL FOR

1 AN ACT to amend Section 7.1 of the "Child Care Act of 49
2 1969", approved May 15, 1969, as amended. 51

3 Be it enacted by the People of the State of Illinois, 55
4 represented in the General Assembly:

5 Section 1. Section 7.1 of the "Child Care Act of 1969", 57
6 approved May 15, 1969, as amended, is amended to read as 58
7 follows:

(Ch. 23, par. 2217.1) 60

8 Sec. 7.1. (a) (1) A facility described in Section 2.09, 62
9 2.10, or 2.18 shall retain on file a list provided by the 63
10 legal guardian of each child under its care, designating 65
11 ~~the~~ persons to whom it may release custody of such child,
12 including

13 (A) a primary list containing the names of persons to 67
14 whom the facility can expect to usually release custody of 68
15 the child, and

16 (B) a contingency list containing the names of persons 70
17 to whom the facility can expect to occasionally release 71
18 custody of the child; and setting forth the manner in which 72
19 such child may leave the facility in the custody of any such 73
20 person.

21 ~~the manner in which such child may leave the~~ 75
22 ~~facility at the end of the period of the day during which the~~ 76
23 ~~child is under the facility's care.~~

24 (2) No such facility shall release custody of any child 78
25 under its care in any manner not authorized by the child's 79
26 guardian, or to any person who is not known to the operators 80
27 of the facility as, or cannot present sufficient 81
28 identification proving himself to be, an individual listed by
29 the child's guardian as one to whom custody of the child may 82
30 be released.

31 (b) Each such facility shall keep a daily departure 84
32 record for each child under its care who leaves the facility 85

1	with a person included on the contingency list, and record	86
2	thereon the times the child leaves the facility, the manner	
3	of departure and the persons with whom such child leaves.	88
4	Section 2. This Act shall take effect upon becoming law.	90

BILL 2

Background

At its August 28, 1985 meeting, the Joint Committee on Administrative Rules recommended that legislation be drafted to amend "An Act creating the Department of Children and Family Services, codifying its powers and duties, and repealing certain Acts and Sections herein named" (Ill. Rev. Stat. 1983, ch. 23, par. 5001 et seq.) to provide specific statutory authorization for the Governor's Youth Services Initiative.

The Governor's Youth Services Initiative is a program that is cooperatively sponsored by DCFS, the Department of Corrections, the Department of Mental Health and Developmental Disabilities and the State Board of Education. The actual program is carried out by DCFS. The Initiative developed from a Cook County pilot project originally proposed by the Governor's Office in 1979. In 1981, a consent decree in the case of David B. et al. legally bound the three agencies to continue to support and participate in the Initiative. Since that time, the program has been expanded beyond Cook County and now services downstate Illinois. The expansion was made possible through the use of DCFS regional staff.

When asked to cite its statutory authority for the Initiative, DCFS revealed that there had been no authorizing legislation or Executive Orders. Basically, the Department was relying on the consent decree in David B. et al. as sufficient support for the program and for its expansion without the need for legislation.

The consent decree in the case of David B. et al. does not, in the view of the Joint Committee, provide adequate authority for the Initiative, and provides no authority to the Department to extend the function or program of the Initiative beyond that which was in existence at the time of the decree. Additionally, the consent decree specifically mandates the cooperation of DCFS, DMHDD and SBE in maintaining the initiative in Cook County, the discussion on the part of those agencies to extend the program into downstate Illinois as a result of the consent decree is without statutory basis.

Therefore, the Joint Committee believes that since the Department of Children and Family Services has always and is currently implementing the Governor's Youth Services Initiative, the statute should be amended to provide the Department with the authority to carry out the Initiative Program. The amendment to the statute shall also reflect that the Department of Corrections, the Department of Mental Health and Developmental Disabilities and the State Board of Education shall work in cooperation with DCFS to maintain the Initiative Program. Effective immediately.

Summary

Creates Section 17a-11 of "An Act creating the Department of Children and Family Services, codifying its powers and duties, and repealing certain Acts and Sections herein named" (Ill. Rev. Stat. 1983, ch. 23, par. 5001 et seq.) to provide specific authorization for the Governor's Youth Services Initiative. Effective immediately.

Legislative Drafting Request

Summary

Creates Section 17a-11 of "An Act creating the Department of Children and Family Services, codifying its powers and duties, and repealing certain Acts and Sections herein named" (Ill. Rev. Stat. 1983, ch. 23, par. 5001 et seq.) to provide specific authorization for the Governor's Youth Services Initiative. Effective immediately.

Drafting Notes

Section 1. Create Section 17a-11 as follows:

(ch. 23, new par. 5017a-11)

Section 17a-11. In cooperation with the Department of Corrections, the Department of Mental Health and Developmental Disabilities and Illinois State Board of Education, the Department of Children and Family Services shall establish the Governor's Youth Services Initiative. This program shall offer assistance to multi-problem youth whose difficulties are not the clear responsibility of any one state agency, and who are referred to the program by the juvenile court.

A Policy Board shall be established as the decision-making body of the Governor's Youth Services Initiative. The Board shall be composed of state agency liaisons appointed by the Directors of the Department of Children and Family Services, the Department of Corrections, the Department of Mental Health and Developmental Disabilities and the State Superintendent of the Illinois State Board of Education. The Board shall meet at least quarterly.

The Department of Children and Family Services in consultation with the aforementioned sponsors of the program shall promulgate rules and regulations pursuant to the Illinois Administrative Procedure Act, for the development of a full continuum of in-state programs necessary to meet the needs of multi-problem youth.

Section 2. This Act shall take effect upon becoming a law.

BILL 3

Background

An objection by the Joint Committee on Administrative Rules to the Department of Children and Family Services' rules entitled "Licensing Standards for Child Care Institutions and Maternity Centers" (89 Ill. Adm. Code 464), has resulted in this proposal. The objection was based upon the lack of statutory authority on the part of the Department to provide, by rule, for the care of certain persons over the age of 18 in child care facilities.

The Joint Committee recommended that legislation be drafted to require child care institutions and maternity centers to provide services to persons age 18 and older who have not completed a public school secondary education or who have been referred by a parent or guardian. The Department contends, and the Joint Committee agrees, that it must provide for the care of persons age eighteen or older in child care facilities because the Department sometimes has custody of persons between the ages eighteen to twenty-one under the Juvenile Court Act and the Act creating the Department of Children and Family Services (Ill. Rev. Stat. 1983, ch. 23, par. 5001 et seq.). The Department also has rules governing "Service Termination". These rules provide for a grace period of 90 days for termination of service to persons "who achieve self-sufficiency as specified in the service plan" and a provision for continued care until age twenty-one for persons who have disabilities and who will be transferred to adult care. These provisions are found in the Act creating the Department of Children and Family Services. The Department is applying this statutory language to its rules promulgated under the Child Care Act. The proposed amendment will eliminate the conflict between the Child Care Act and the Department's enacting legislation to give the Department the authority, in certain instances, to care for persons until they reach 21 years of age.

Summary

Amend the Child Care Act of 1969 (Ill. Rev. Stat. 1983, ch. 23, par. 2211 et seq.) to authorize the Department of Children and Family Services' current practice of admitting persons 18 years of age and older to child care institutions and maternity centers under certain circumstances. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 23, par. 2212.01)

Amends the Child Care Act. Authorizes admitting persons over 18, and under 21, under certain circumstances. Effective immediately.

LRB8407580BDjs

A BILL FOR

1 AN ACT to amend Section 2.01 of the "Child Care Act of 47
2 1969", approved May 15, 1969, as amended. 49

3 Be it enacted by the People of the State of Illinois, 53
4 represented in the General Assembly:

5 Section 1. Section 2.01 of the "Child Care Act of 1969", 55
6 approved May 15, 1969, as amended, is amended to read as 56
7 follows:

 (Ch. 23, par. 2212.01) 58

8 Sec. 2.01. "Child" means any person under 18 years of 61
9 age. For purposes of admission to and residence in child care 62
10 institutions and maternity centers, the term also means any 63
11 person under 21 years of age who is referred by a parent or 64
12 guardian, including an agency having legal responsibility for 65
13 the person pursuant to Section 5-7 of the Juvenile Court Act. 66
14 Termination of care for such persons under 21 years of age
15 shall occur no later than 90 days following completion of a 67
16 public school secondary education program or the individual's 68
17 eligibility for such a program. 69

18 Section 2. This Act shall take effect upon becoming law. 71

BILL 4

Background

This proposal is based upon a lack of statutory authority on the part of the Department of Commerce and Community Affairs to impose certification requirements on local tourism and convention bureaus, including the requirement that a bureau have at least one full-time person and to provide dollar-for-dollar matching funds, by rule (14 Ill. Adm. Code 550). The need for such requirements, according to the Department, reflects the original legislative intent of the grants earmarked by the General Assembly for tourism and convention bureaus. The Joint Committee on Administrative Rules recommended that the Department initiate legislation to statutorily provide for these requirements. Part of this recommendation was addressed in Public Act 84-993, which specifically provides for the implementation of the certification and staffing requirements. Not addressed, however, was the matching fund requirement which was deleted from the bill at the conference committee stage. It would appear that the provision was deleted in order to avoid dollar-for-dollar matching funds to be used for the World's Fair. The World's Fair is no longer a timely topic, having been defeated during the past substantive session. Therefore, this legislative proposal puts the matching grant language back in the Act.

Summary

To amend Section 46.6a of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1983, ch. 127, par. 46.6a, as amended by P.A. 84-993) to provide the Department of Commerce and Community Affairs the authority to require a dollar-for-dollar match for the grant program for local tourism and convention bureaus. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 127, par. 46.6a)

Amends The Civil Administrative Code of Illinois concerning grants by the Department of Commerce and Community Affairs for local tourism and convention bureaus. Requires a bureau to verify to the Department its ability to provide a dollar for dollar match for all funds allocated to it by the Department. Effective immediately.

LRB8407587CMtc

A BILL FOR

1 AN ACT to amend Section 46.6a of "The Civil 49
2 Administrative Code of Illinois", approved March 7, 1917, as 50
3 amended. 51

4 Be it enacted by the People of the State of Illinois, 55
5 represented in the General Assembly:

6 Section 1. Section 46.6a of "The Civil Administrative 57
7 Code of Illinois", approved March 7, 1917, as amended, is 58
8 amended to read as follows:

(Ch. 127, par. 46.6a) 60

9 Sec. 46.6a. (1) To establish a grant program for local 62
10 tourism and convention bureaus. The Department will develop 63
11 and implement a program for the use of funds, as authorized 64
12 under this Act, by local tourism and convention bureaus. For 65
13 the purposes of this Act, bureaus eligible to receive funds 66
14 are defined as those bureaus in legal existence as of January 67
15 1, 1985, which are either a unit of local government or 68
16 incorporated as a not-for-profit organization, are affiliated 69
17 with one or more municipality or county, and employ one full 70
18 time staff person whose purpose is to promote tourism. Each 71
19 bureau receiving funds under this Act will be certified by 72
20 the Department as the designated recipient to serve an area 73
21 of the State. A bureau shall verify to the Department its
22 ability to provide a dollar for dollar match for all funds
23 allocated to it by the Department. These funds may not be 74
24 used in support of the Chicago Worlds Fair.

25 (2) To distribute grants to local tourism and convention 76
26 bureaus from appropriations made from the Convention and 77
27 Local Tourism Bureau Account in the Build Illinois Fund for 78
28 that purpose. Of the amounts appropriated annually to the 79
29 Department for expenditure under this Section, 1/3 of such 80
30 monies shall be used for grants to convention and tourism 81
31 bureaus in cities with a population greater than 500,000. The
32 remaining 2/3 of the annual appropriation shall be used for 82

1	grants to such bureaus in the remainder of the State, in	83
2	accordance with a formula based upon the population served.	84
3	The Department may reserve up to 10% of such remaining 2/3 of	85
4	the funds appropriated to conduct audits of grants, to	86
5	provide incentive funds to those bureaus which will conduct	
6	promotional activities designed to further the Department's	87
7	statewide advertising campaign, and to fund promotional	88
8	activities which support an increased use of the State's	89
9	parks.	90
10	Section 2. This Act takes effect upon its becoming a law.	92

BILL 5

Background

This proposal is based upon a recommendation issued by the Joint Committee on Administrative Rules to draft legislation which would grant the Department of Commerce and Community Affairs the authority to require that recipients of grants under the Technology Commercialization Grant-in-Aid Program hold the State of Illinois harmless from any and all claims and actions based upon or arising out of any services provided by themselves or their associates and employers.

According to the Department, it is involved with research and innovation through the Technology Grant-in-Aid Program, in which issues of patent rights may arise. It is also making decisions as to which projects should receive funding. For these reasons, the Department felt, and the Joint Committee has concurred, that such protection from liability is prudent on the part of the Department. The Department's rules to implement this Program include a hold-harmless clause (17 Ill. Adm. Code 540.70(w)). The Department has conceded, however, that there is no statutory authority for such a regulatory provision. The Department agrees with the Joint Committee in its recommendation to seek legislation to hold the State of Illinois harmless from any and all claims, demands, and actions based upon or arising out of services performed by recipients or their associates and employers under the grant program.

Summary

Amend Section 46.19a of the Civil Administrative Code (Ill. Rev. Stat. 1983, ch. 127, par. 1 et seq., as amended) to grant the Department of Commerce and Community Affairs the specific statutory authority to require recipients of grants under the Technology Commercialization Grants-in-Aid Program to hold the State of Illinois harmless from any and all claims and actions based upon or arising out of any services provided by themselves or their associates and employers. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 127, par. 46.19a)

Amends the Civil Administrative Code. Provides that recipients of grants under the Technology Commercialization Grant-in-Aid program shall hold the State harmless from certain claims and actions. Effective immediately.

LRB8407704JMcs

A BILL FOR

1 AN ACT to amend Section 46.19a of "The Civil 48
2 Administrative Code of Illinois", approved March 7, 1917, as 49
3 amended. 50

4 Be it enacted by the People of the State of Illinois, 54
5 represented in the General Assembly:

6 Section 1. Section 46.19a of "The Civil Administrative 56
7 Code of Illinois", approved March 7, 1917, as amended, is 57
8 amended to read as follows:

(Ch. 127, par. 46.19a) 59

Sec. 46.19a. (1) To facilitate and fund upon request to the Director, job-training programs with new or expanding industrial firms and to facilitate and fund job-training programs between new or expanding industrial firms and public or proprietary institutions of higher or secondary education, provided that the State's contribution shall not exceed 66 2/3% of the direct costs of all approved programs, except for such programs in which at least 50% of the participants are selected from individuals who at the time of their selection are either (a) determined by the Department of Employment Security to be unemployed or (b) determined by the Department of Public Aid to be receiving State welfare benefits or (c) determined by the Department of Rehabilitation Services to be receiving training for the handicapped, in which case the State contribution shall constitute not more than 100% of all direct costs of approved programs. Recipients of grants under the Technology Commercialization Grant-in-Aid program shall hold the State of Illinois harmless from any and all claims and actions based upon and arising out of any services performed under the grant by the recipient or the recipient's associates and employers.

30 The Director shall have the following duties and 79
31 responsibilities in regard to such programs: 80

32 (a) He shall review and may grant requests from 82

1 reputable industrial firms for job-training programs designed 83
2 to aid in the relocation or expansion of such firms; 84
3 (b) He may after coordinating and utilizing all 86
4 available federal job training monies, supplement such funds 87
5 with State monies annually appropriated to the Department 88
6 hereunder for such purposes;
7 (c) He may rent, purchase, or lease such equipment or 90
8 machinery necessary to equip such job-training programs or 91
9 make grants to any higher or secondary education institution 92
10 for such purposes;
11 (d) He shall work with local developmental authorities, 94
12 local Employment Services offices, local labor organizations, 95
13 the Department of Rehabilitation Services, the Department of 96
14 Public Aid or other appropriate agencies in developing such 97
15 job-training programs.
16 (2) To establish a program of grants to universities, 99
17 community colleges, research institutions, research 100
18 consortiums, other not-for-profit entities, and Illinois 101
19 businesses for the purpose of fostering research and 102
20 development in the high technology and the service sector
21 leading to the development of new products and services that 103
22 can be marketed by Illinois businesses. All grant awards 104
23 shall include a contract which may provide for payment of 105
24 negotiated royalties to the Department if the product or
25 service to be developed by the grantee is subsequently 106
26 licensed for production.
27 (a) Grants may be awarded to universities and research 108
28 institutions to assist them in making their faculties and 109
29 facilities available to Illinois businesses. Such grants may 110
30 be used by a university or research institution for, 111
31 including but not limited to the following purposes: (i) to
32 establish or enhance computerized cataloging of all research 112
33 labs and university staff and make such catalogues available 113
34 to Illinois businesses; (ii) to market products developed by 114
35 the university to Illinois businesses; (iii) to review 115

1 publications in order to identify, catalog, and inform 116
2 Illinois businesses of new practices in areas such as 117
3 robotics, biotechnology; (iv) to build an on-line,
4 information and technology system that relies on other 118
5 computerized networks in the United States; (v) to assist in 119
6 securing temporary replacement for faculty who are granted a 120
7 leave of absence from their teaching duties for the purpose
8 of working full-time for an Illinois business to assist that 121
9 business with technology transfer. 122

10 (b) Grants may be awarded to universities and research 124
11 institutions, research consortiums and other not-for-profit 125
12 entities for the purpose of identifying and supporting 126
13 Illinois businesses engaged in high technology and service 127
14 sector enterprises. Such Illinois businesses identified and
15 funded shall include recipients of Small Business Innovation 128
16 Research Program funds under subsections (e) through (k) of 129,
17 Section 9 of the Small Business Act. (Title 15 United States 130,
18 Codes, subsections 638(e)-638(k)). Entities receiving grants 131
19 under this paragraph (b) shall be known as commercialization 132
20 centers and shall engage in one or more of the following 133
21 activities:

22 (i) directing research assistance for new venture 135
23 creations;

24 (ii) general feasibility studies of new venture ideas; 137
25 (iii) furthering the technical and intellectual skills 139
26 of the managers and owners of Illinois small businesses; 140
27 (iv) commercialization of technology and research; 142
28 (v) development of prototypes and testing new products; 144
29 (vi) identify and assist in securing financing; 146
30 (vii) marketing assistance; and 148
31 (viii) assisting Illinois inventors in finding Illinois 150
32 manufacturers to produce and market their inventions. 151

33 A commercialization center may charge a nominal fee for 153
34 conducting feasibility studies and other services. 154

35 (c) Grants may be awarded by the Department to Illinois 156

1 businesses to fund research and consultation arrangements 157
2 between businesses and universities, community colleges, 158
3 research institutions, research consortiums and other 159
4 not-for-profit entities within this State.
5 The Department shall give priority to Illinois small 161
6 businesses in awarding grants. Each grant awarded under this 162
7 paragraph (c) shall provide funding for up to 50% of the cost 163
8 of the research or consultation arrangements, not to exceed 164
9 \$100,000; provided that the grant recipient utilizes Illinois
10 not for profit research and academic institutions to perform 165
11 the research and development function for which grant funds 166
12 were requested.
13 (d) Grants may be awarded to research consortium and 168
14 other qualified applicants, in conjunction with private 169
15 sector or federal funding, for other creative systems that 170
16 bridge university resources and business, technological, 171
17 production and development concerns.
18 (e) For the purposes of subsection (2), (i) "Illinois 173
19 business" means a "small business concern" as defined in 174
20 Title 15 United States Code, Section 632, which primarily 175
21 conducts its business in Illinois; (ii) "high technology" 176
22 means any area of research or development designed to foster 177
23 greater knowledge or understanding in fields such as computer
24 science, electronics, physics, chemistry or biology for the 178
25 purpose of producing designing, developing or improving 179
26 prototypes and new processes; (iii) "private sector" shall 180
27 have the meaning ascribed to it in Title 29 United States 181
28 Code, Section 1503; (iv) "University" means either a degree
29 granting institution located in Illinois as defined in 182
30 Section 2 of "An Act to regulate the granting of academic 183
31 degrees, diplomas and certificates by certain educational 184
32 institutions, to provide penalties for the violation thereof 185
33 and to make an appropriation therefor", approved August 14,
34 1961, as amended, or a State-supported institution of higher 186
35 learning administered by the Board of Trustees of the 187

1 University of Illinois, the Board of Trustees of Southern 188
 2 Illinois University, the Board of Regents of Regency 189
 3 Universities, the Board of Governors of State Colleges and
 4 Universities or the Illinois Community College Board; (v) 190
 5 "venture" means any Illinois business engaged in research and 191
 6 development to create new products or services with high 192
 7 growth potential; (vi) Illinois research institutions refers 193
 8 to not-for-profit entities, which include federally-funded
 9 research laboratories, that conduct research and development 194
 10 activities for the purpose of producing, designing, 195
 11 developing, or improving prototypes and new processes; and 196
 12 (vii) other not-for-profit entities means non-profit 197
 13 organizations based in Illinois that are primarily devoted to
 14 new enterprise or product development. 198
 15 (3) There is created within the Department, a Technology 200
 16 Innovation and Commercialization Grants-in-Aid Council which 201
 17 shall consist of 2 representatives of the Department of 202
 18 Commerce and Community Affairs appointed by the Department; 203
 19 one representative of the Illinois Board of Higher Education, 204
 20 appointed by the Board; one representative of science or
 21 engineering appointed by the Governor; two representatives of 205
 22 business, appointed by the Governor; and one representative 206
 23 of small business, appointed by the Governor. The Director of 207
 24 Commerce and Community Affairs shall appoint one of the 208
 25 Department's representatives to serve as chairman of the
 26 Council. The Council members shall receive no compensation 209
 27 for their services but shall be reimbursed for their expenses 210
 28 actually incurred by them in the performance of their duties 211
 29 under this subsection. The Department shall provide staff 212
 30 services to the Council. The Council shall provide for review 213
 31 and evaluation of all applications received by the Department
 32 under subsection (2) of this Section and make recommendations 214
 33 on those projects to be funded. The Council shall also assist 215
 34 the Department in monitoring the projects and in evaluating 216
 35 the impact of the program on technological innovation and 217

1	business development within the State.	217
2	(4) There is hereby created a special fund in the State	219
3	Treasury to be known as the Technology Innovation and	220
4	Commercialization Fund. The moneys in such Fund may be used,	221
5	subject to appropriation, only for making grants pursuant to	222
6	subsection (2) of this Section. All royalties received by the	
7	Department shall be deposited in such Fund.	224
8	Section 2. This Act takes effect upon becoming law.	226

BILL 6

Background

During the review of the Department of Conservation's rules regarding field trials (17 Ill. Adm. Code 930), it was learned that the Department waives the Illinois hunting license requirement for non-resident participants and official gunners when the non-resident resides in a state which permits Illinois residents to participate in field trials in that state. The Department stated that provisions such as the courtesy non-resident license is a necessary part of Illinois' public relations with participants from other states since the same privilege is extended to Illinois participants in events held outside Illinois. The Joint Committee on Administrative Rules has recommended, based upon the rationale of the Department's rules, that the non-resident hunting license requirement should be waived for such non-resident participants and gunners at field trials.

Summary

Amends Section 3.1 of the Wildlife Code of 1971 (Ill. Rev. Stat. 1983, ch. 61, par. 3.1) to allow the Department of Conservation to waive the Illinois hunting license requirement for non-resident participants and official gunners at field trials if they reside in a state that reciprocates by allowing Illinois residents to participate in field trials in that state without obtaining a hunting license in that State. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 61, par. 3.1)

Amends the Wildlife Code to provide that a courtesy non-resident license for taking game may be issued to non-resident participants and official gunners at field trials who reside in a state which extends the same privilege to residents of Illinois. Effective immediately.

LR984075742Mmr

A BILL FOR

1 AN ACT to amend Section 3.1 of the "Wildlife Code", 47
 2 approved December 10, 1971, as amended. 49

3 Be it enacted by the People of the State of Illinois, 53
 4 represented in the General Assembly:

5 Section 1. Section 3.1 of the "Wildlife Code", approved 55
 6 December 10, 1971, as amended, is amended to read as follows: 56
 (Ch. 61, par. 3.1) 58

7 Sec. 3.1. Before any person shall take or attempt to 60
 8 take any of the species protected by Section 2.2 for which an 61
 9 open season is established under this Act, he shall first 62
 10 have procured and possess a valid hunting license. 63

11 Before any person 16 years of age or older shall take or 65
 12 attempt to take any bird of the species defined as migratory 66
 13 waterfowl by Section 2.2, he shall first have procured a 67
 14 State Migratory Waterfowl Stamp.

15 A hunting license shall not be issued to any person under 69
 16 the age of 16 years without the written consent of the 70
 17 father, mother or legally constituted guardian of such 71
 18 person.

19 Before any person who is a non-resident of the State of 73
 20 Illinois shall take or attempt to take any of the species 74
 21 protected by Section 2.2, for which an open season is 75
 22 established under this Act, he shall, unless specifically 76
 23 exempted by law, first procure a non-resident license as 77
 24 provided by this Act for the taking of any wild game.

25 The owners residing on, or bona fide tenants of, farm 79
 26 lands and their children, parents, brothers, and sisters 80
 27 actually permanently residing on such lands, shall have the 81
 28 right to hunt any of the species protected by Section 2.2, 82
 29 upon such lands and waters thereon, without procuring hunting 83
 30 licenses; but such hunting shall be done only during such 84
 31 periods of time and with such devices and by such methods as 85
 32 are permitted by this Act. Any person on active duty with 86

1 the Armed Forces of the United States who is now and who was 86
2 at the time of entering the Armed Forces, a resident of 87
3 Illinois and who entered such Armed Forces from this State, 88
4 and who is presently on ordinary leave from the Armed Forces, 89
5 and any resident of Illinois who is disabled, or 65 years of 90
6 age or more, may hunt any of the species protected by Section 91
7 2.2 without procuring a hunting license, but such hunting 92
8 shall be done only during such periods of time and with such 93
9 devices and by such methods as are permitted by this Act.
10 For the purpose of this Section a person is disabled when 94
11 that person has a Type 1 or Type 4, Class 2 disability as 95
12 defined in Section 4A of The Illinois Identification Card 96
13 Act. For purposes of this Section, an Illinois Disabled 97
14 Person Identification Card issued pursuant to The Illinois 98
15 Identification Card Act indicating that the person thereon
16 named has a Type 1 or Type 4, Class 2 disability shall be 99
17 adequate documentation of such a disability. 100
18 A courtesy non-resident license for taking game may be 102
19 issued at the discretion of the Director, without fee, to any 103
20 person officially employed in the game and fish or 104
21 conservation department of another state or of the United 105
22 States who is within the State to assist or consult or 106
23 cooperate with the Director; or to the officials of other 107
24 states, the United States, foreign countries, or officers or
25 representatives of conservation organizations or publications 108
26 while in the State as guests of the Governor or Director; or 109
27 to non-resident participants and official gunners at field 110
28 trials who reside in a state which extends the same privilege 111
29 to residents of Illinois.
30 State Migratory Waterfowl Stamps shall be required for 113
31 the same persons who intend to hunt migratory waterfowl and 114
32 under the same conditions as hunting licenses of the various 115
33 types authorized and required by this Section. 117
34 Section 2. This Act takes effect upon its becoming a law. 119

BILL 7

Background

This proposal clarifies within the Wildlife Code a discrepancy which occurred during a Joint Committee on Administrative Rules review of the Department of Conservation's rules entitled "Cock Pheasant, Hungarian Partridge, Bobwhite Quail, Rabbit and Crow Hunting Regulations."

In order to control participation at Department-owned or managed sites during the controlled pheasant hunting season and Youth Pheasant Hunt, The Department of Conservation requires hunters to deposit their hunting license or Firearm Owners Identification Card when they check into the site. The licenses and the I.D. cards are returned when the hunters check out. Section 3.2 of the Wildlife Code, however, states that a hunter must always have a hunting license on his person. Further consultation with the Department revealed that hunters are required to deposit their licenses every time they enter a Department-owned or managed site, not just for these particular hunts. Based upon this information, the Joint Committee recommended, and the Department supports, amending the Wildlife Code as well as "An Act relating to the acquisition, possession and transfer of firearms and firearm ammunition" to provide the Department with the authority to retain hunting licenses and Firearm Owners Identification Cards while hunters are hunting on Department-owned and managed sites. This provision does not delete the language requiring hunters to have licenses on their person and available upon demand. Rather it simply adds an exception to that requirement for hunting while on Department of Conservation owned and managed sites.

Summary

Amend Section 3.2 of the Wildlife Code of 1971 (Ill. Rev. Stat. 1983, ch. 61 par. 3.2 and Section 2 of "An Act relating to the acquisition, possession and transfer of firearms and firearm ammunition" (Ill. Rev. Stat. 1983, ch. 38, par. 83-2 as amended by P.A. 84-25, effective July 18, 1985), to provide the Department of Conservation with the authority to retain a hunter's license, permit or Firearm Owner's Identification Card while he or she is hunting on a Department owned or managed site. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 38, par. 83-2; Ch. 61, par. 3.2)

Amends an Act relating to the possession of firearms and the Wildlife Code. Exempts hunters from the requirement that a license, permit or a Firearm Owner's Identification Card necessary to hunt shall be in their possession at all times when required to deposit such items at a check station upon entering hunting areas owned or managed by the Department of Conservation. Provides that under such circumstances, failure to possess a Firearm Owner's Identification Card shall not be a criminal violation. Effective immediately.

LRB8407706SFtc

A BILL FOR

1 AN ACT in relation to firearm permits, licenses and 56
2 identification cards. 57

3 Be it enacted by the People of the State of Illinois, 61
4 represented in the General Assembly:

5 Section 1. Section 2 of "An Act relating to the 63
6 acquisition, possession and transfer of firearms and firearm 64
7 ammunition, to provide a penalty for the violation thereof 65
8 and to make an appropriation in connection therewith, 66
9 approved August 3, 1967, as amended, is amended to read as
10 follows:

(Ch. 38, par. 83-2) 68

11 Sec. 2. (a) No person may acquire or possess any firearm 70
12 or any firearm ammunition within this State without having in 71
13 his possession a Firearm Owner's Identification Card 72
14 previously issued in his name by the Department of State 73
15 Police under the provisions of this Act.

16 (b) The provisions of this Section regarding the 75
17 possession of firearms and firearm ammunition do not apply 76
18 to:

19 (1) United State's Marshals, while engaged in the 78
20 operation of their official duties; 79

21 (2) Members of the Armed Forces of the United States or 81
22 the National Guard, while engaged in the operation of their 82
23 official duties;

24 (3) Federal officials required to carry firearms, while 84
25 engaged in the operation of their official duties; 85

26 (4) Members of bona fide veterans organizations which 87
27 receive firearms directly from the armed forces of the United 88
28 States, while using such firearms for ceremonial purposes 89
29 with blank ammunition;

30 (5) Nonresident hunters during hunting season, with 91
31 valid nonresident hunting licenses and while in an area where 92
32 hunting is permitted; however, at all other times and in all 93

1	other places such persons must have their firearms unloaded	94
2	and enclosed in a case;	
3	<u>(6) Those hunters exempt from obtaining a hunting</u>	96
4	<u>license who are required to submit their Firearm Owner's</u>	97
5	<u>Identification Card when hunting on Department of</u>	98
6	<u>Conservation owned or managed sites;</u>	99
7	<u>(7) †6† Nonresidents while on a firing or shooting range</u>	
8	recognized by the Department of State Police; however, such	100
9	persons must at all other times and in all other places have	102
10	their firearms unloaded and enclosed in a case;	103
11	<u>(8) †7† Nonresidents, while at a firearm showing or</u>	105
12	display recognized by the Department of State Police;	106
13	however, at all other times and in all other places such	108
14	persons must have their firearms unloaded and enclosed in a	109
15	case;	
16	<u>(9) †8† Nonresidents, whose firearms are unloaded and</u>	111
17	enclosed in a case;	
18	<u>(10) †9† Nonresidents, who are currently licensed or</u>	113
19	registered to possess a firearm in their resident state;	114
20	<u>(11) †10† Unemancipated minors while in the custody and</u>	116
21	immediate control of their parent or legal guardian or other	117
22	person in loco parentis to such minor if that such parent or	118
23	legal guardian or other person in loco parentis to such minor	119
24	has a currently valid Firearm Owner's Identification Card;	120
25	and	
26	<u>(12) †11† Color guards of bona fide veterans</u>	122
27	organizations or members of bona fide American Legion bands	123
28	while using firearms for ceremonial purposes with blank	124
29	ammunition.	
30	<u>(c) The provisions of this Section regarding the</u>	126
31	acquisition and possession of firearms and firearm ammunition	127
32	do not apply to law enforcement officials of this or any	128
33	other jurisdiction, while engaged in the operation of their	
34	official duties.	130
35	Section 2. Section 3.2 of the "Wildlife Code", approved	132

1 December 10, 1971, as amended, is amended to read as follows: 133
(Ch. 61, par. 3.2) 135

2 Sec. 3.2. Before the Department or any county, city, 137
3 village, township, incorporated town clerk or his duly 138
4 designated agent or any other person authorized or designated 139
5 by the Department to issue hunting licenses shall issue a 140
6 hunting license to any person, the person shall file his 142
7 application with the Department or other party authorized to 143
8 issue licenses on a form provided by the Department and 144
9 further give definite proof of identity and place of legal 145
10 residence. Each clerk designating agents to issue licenses 146
11 and stamps shall furnish the Department, within 10 days 147
12 following the appointment, the names and mailing addresses of 148
13 the agents. Each clerk or his duly designated agent shall be 149
14 authorized to sell licenses and Migratory Waterfowl stamps 150
15 only within the territorial area for which he was elected or 151
16 appointed. No duly designated agent is authorized to furnish 152
17 licenses or stamps for issuance by any other person or 153
18 business establishment. Each application shall be executed 154
19 and sworn to and shall set forth the name and description of 155
20 the applicant and place of residence.

21 Beginning July 1, 1976, no hunting license shall be 156
22 issued to any person under 16 years of age unless he presents 157
23 the person authorized to issue such license either (a) 158
24 evidence that he has held a hunting license issued by the 159
25 State of Illinois or another state in a prior year, or (b) a 160
26 certificate of competency as provided in this Section.

27 The Department of Conservation shall authorize personnel 162
28 of the Department or certified volunteer instructors to 163
29 conduct courses in firearms and hunter safety, which may 164
30 include training in bow and arrow safety, at regularly 165
31 specified intervals throughout the State of not less than 8 166
32 hours in length. Persons successfully completing the course 167
33 shall receive a certificate of competency. The Department of 168
34 Conservation shall further cooperate with any reputable

1 association or organization in establishing courses if the 169
2 organization has as one of its objectives the promotion of 170
3 safety in the handling of firearms or bow and arrow. 171
4 The Department of Conservation may designate any person 173
5 found by it to be competent to give instruction in the 174
6 handling of firearms, hunter safety and bow and arrow. The 175
7 persons so appointed shall give the course of instruction and 176
8 upon the successful completion thereof shall issue to the 177
9 person instructed a certificate of competency in the safe 178
10 handling of firearms, hunter safety and bow and arrow. No
11 charge shall be made for any course of instruction except for 179
12 materials or ammunition consumed. The Department of 180
13 Conservation shall furnish information on the requirements of 181
14 hunter safety education programs to be distributed free of 182
15 charge to applicants for hunting licenses by the persons 183
16 appointed and authorized to issue licenses. Funds for the
17 conducting of firearms and hunter safety courses shall be 184
18 taken from the fee charged for the Firearm Owners 185
19 Identification Card.
20 The fee for a hunting license to hunt all species for a 187
21 resident of Illinois is \$7. 188
22 Upon submitting suitable evidence of legal residence in 190
23 any other state, non-residents shall be charged the same fee 191
24 for a hunting license to hunt as that charged residents of 192
25 Illinois by the State in which the applicant resides, except 193
26 that in no case shall such fee be less than \$15 and if the 194
27 state of the applicant's residence does not provide for a 195
28 non-resident hunting license to hunt all species, then the
29 fee shall be the minimum provided for in this paragraph. The 196
30 license fee for a person not a resident of the United States 197
31 to take wildlife except deer is \$15. 198
32 Upon submitting suitable evidence of legal residence in 200
33 any other state, non-residents may be issued a non-resident 201
34 hunting license for a period not to exceed 10 consecutive 202
35 days' hunting in the state and shall be charged a fee of \$10; 203

1 however, no such license shall be issued to non-residents 204
2 from states that do not extend the same privilege to 205
3 residents of Illinois.

4 A special non-resident hunting license authorizing a 207
5 non-resident to take game birds by shooting on a game 208
6 breeding and shooting preserve area only, established under 209
7 Section 3.27, shall be issued upon proper application being 210
8 made and payment of a fee of \$5. The expiration date of this 211
9 license shall be March 31 of each year.

10 Notwithstanding any other provision in this Section, 213
11 non-residents who are 65 years of age or more shall not be 214
12 required to obtain any hunting license in Illinois if 215
13 Illinois residents of that age are granted the same privilege 216
14 by the State in which the non-resident resides. If an 217
15 Illinois resident of age 65 or more is required to obtain a 218
16 hunting license by the State in which a non-resident 219
17 applicant of age 65 or more resides, such non-resident shall 219
18 be required to obtain a license to hunt in Illinois and the 220
19 fee shall be the same as that charged Illinois residents of 221
20 the same age by the State in which the non-resident applicant 222
21 resides. The requirements with respect to minimum fees in 223
22 this Section shall not apply to non-resident applicants of 224
23 age 65 or more.

24 Each applicant for a State Migratory Waterfowl Stamp, 226
25 regardless of his residence or other condition, shall pay a 227
26 fee of \$5, and shall receive therefor a stamp, which shall be 228
27 affixed to his license or permit in a space designated by the 229
28 Department for that purpose.

29 The Department shall furnish the holders of hunting 231
30 licenses and Migratory Waterfowl Stamps with such insignia as 232
31 evidence of possession of license, or license and stamp, as 233
32 the Department may consider advisable, and such insignia 234
33 shall be exhibited and used as the Department may order. 235

34 All other hunting licenses and all migratory waterfowl 237
35 stamps shall expire upon March 31 of each year. 238

1 Every person holding any license, permit or stamp issued 240
2 under the provisions hereof shall have it in his possession 241
3 for immediate presentation for inspection to the officers and 242
4 authorized employees of the Department, any sheriff, deputy 243
5 sheriff or any other peace officer making a demand for it. 245
6 This provision shall not apply to Department owned or managed
7 sites where it is required that all hunters deposit their 246
8 license, permit or Firearm Owner's Identification Card at the 247
9 check station upon entering the hunting areas. 248
10 Section 3. This Act shall take effect upon becoming a 250
11 law.

BILL 8

Background

The Department of Conservation promulgated rules regulating the transportation and possession of certain species of aquatic life within the State of Illinois. In proposing its rules, the Department stated that it was primarily concerned with controlling the population of grass carp in the State. The Department's authority to regulate the introduction of species not indigenous to Illinois is found in Section 3.20 of the Fish Code. That Section states, "[i]t shall be unlawful to release any aquatic life into waters of the State without first seeking the permission of the Department to do so...."

The Department was asked to explain its statutory authority to make it unlawful to possess, transport or ship these species. The Department stated that it regulated the shipping and transportation of fish previously through Section 5.12 of the Fish Code because that section requires anyone who ships aquatic life to have a fish dealer's license. The Department responded that possession was a condition of both shipping and releasing.

While Section 5.12 of the Fish Code allows the Department to require one who sells or ships aquatic life to obtain a fish dealer's license, it does not state that shipping certain species is unlawful without special permission from the Department. Furthermore, the statute does not make unlawful the conditions necessary to ship or release aquatic life. The Department by adopting these rules and regulations is exceeding its limitations and clearly stated statutory authority. The Department no doubt is taking such action because it feels that the biological balance of the aquatic population of the State is at stake. However, the necessity of regulation does not allow the Department to promulgate rules beyond its present authority. Therefore, the Joint Committee on Administrative Rules has recommended that the Fish Code be amended to provide the Department of Conservation with the specific authority to regulate the transportation and possession of aquatic life within the State of Illinois.

Summary

Amends Section 3.20 of the Fish Code (Ill. Rev. Stat. 1983, ch. 56, par. 3.20) to provide the Department of Conservation with the authority to regulate the transportation and possession of aquatic life. Effective immediately.

Legislative Drafting Request

Summary

Amends Section 3.20 of the Fish Code (Ill. Rev. Stat. 1983, ch. 56, par. 3.20) to provide the Department of Conservation with the authority to regulate the transportation and possession of aquatic life. Effective immediately.

Section 1. Amend Section 3.20 as follows:

(Ill. Rev. Stat 1983, ch. 56, par. 3.20)

Section 3.20. It shall be unlawful to release any fish into waters of this State without first seeking permission of the Department to do so, except that owner of a body of water may release fish that are indigenous to the State of Illinois. The Department shall have the authority to promulgate as necessary rules and regulations, pursuant to the Illinois Administrative Procedure Act, regulating the possession, transportation and shipping of aquatic life not indigenous to the State of Illinois. All fish may be released into waters from which they were taken.

Section 2. This Act shall take effect upon becoming a law.

BPJ:ss:320:ldraft

BILL 9

Background

During the review of a Department of Employment Security rule (56 Ill. Adm. Code 2730), the Joint Committee on Administrative Rules discovered a conflict between the Department's rules and the Unemployment Insurance Act. The Act provides that employers shall notify each employee of his right to report as wages the amount of gratuities received in the course of his work, to the employer, for the purpose of determining benefits and taxes under the Act. The Department's rules, however, state that employers shall notify employees of the duty to report gratuities as wages. Under federal law, it is an employee's duty to report such gratuities as wages. The Joint Committee recommended that the Department seek legislation amending Section 234 of the Unemployment Insurance Act to make it consistent with federal law.

Summary

Amends Section 234 of the Unemployment Insurance Act (Ill. Rev. Stat. 1983, ch. 48, par. 344) to provide that employers must notify employees that they have the duty rather than the right to report to the employer gratuities received during the course of employment. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 48, par. 344)

Amends The Unemployment Insurance Act. Specifies an employer must notify each employee of the employee's "duty," rather than his "right," to report to the employer gratuities received by the employee and required to be treated as wages. Effective immediately.

LRB8407577Cmtc

A BILL FOR

1 AN ACT to amend Section 234 of "The Unemployment 53
2 Insurance Act", approved June 30, 1937, as amended. 55

3 Be it enacted by the People of the State of Illinois, 59
4 represented in the General Assembly:

5 Section 1. Section 234 of "The Unemployment Insurance 61
6 Act", approved June 30, 1937, as amended, is amended to read 62
7 as follows:

(Ch. 48, par. 344) 64

8 Sec. 234. Subject to the provisions of Sections 233 and 66
9 245 C, "wages" means every form of remuneration for personal 67
10 services, including salaries, commissions, bonuses, and the 68
11 reasonable money value of all remuneration in any medium 69
12 other than cash. The reasonable money value of remuneration
13 in any medium other than cash shall be estimated and 70
14 determined in accordance with rules prescribed by the 71
15 Director. Such rules shall be based upon the reasonable past 72
16 experience of the workers and the employing units concerned
17 therewith. 73

18 Where gratuities are customarily received by an 75
19 individual in the course of his work from persons other than 76
20 his employer, such gratuities shall, subject to the 77
21 provisions of this paragraph, be treated as wages received 78
22 from his employer. Each such employer shall notify each such
23 individual of his duty right to report currently the amount 79
24 of such gratuities to such employer and the Director shall, 80
25 by regulation, prescribe the manner of notification and of 81
26 reporting. The amount of gratuities so reported shall 82
27 constitute a conclusive determination of the amount received
28 unless the employer, within the time prescribed by 83
29 regulation, notifies the Director of his disagreement 84
30 therewith. Gratuities not so reported to the employer in the 85
31 manner prescribed by such regulations of the Director shall
32 not be wages for any of the purposes of this Act. 88

1

Section 2. This Act takes effect upon its becoming a law.

90

BILL 10

Background

The Joint Committee on Administrative Rules suggested, after a review of the Department of Financial Institutions' rules implementing the Illinois Credit Union Act (38 Ill. Adm. Code 190), that legislation be drafted to explicitly permit the Department to require credit unions to provide fidelity bonds and insurance coverage for the unlawful acts of third persons and credit union officials as well as officers and employees of the credit union having custody of or handling funds. The Department's rules include such a provision.

Public Act 83-1347, effective September 8, 1984, amended the Credit Union Act to make it a duty of a credit union's Board of Directors to "Provide adequate fidelity bond coverage for officers and employees having custody of or handling funds subject to the rules and regulations promulgated by the Directors."

The Department explained that the changes to the Act made by P.A. 83-1347, were prepared on behalf of the Illinois Credit Union League, and were intended to make the Illinois legislation "parallel" the federal regulations, which use broad language to authorize coverage. The Department's explanations and the legislative history of P.A. 83-1347 indicate that the General Assembly intended to permit the Department to parallel the regulations for federal credit unions. The changes made to Section 30 of the Illinois Credit Union Act by P.A. 83-1347 do not clearly evidence that intent. The language of that legislation acted to replace a requirement for a bond to protect against listed unlawful acts of officers, employees, Directors, agents, etc., with a more general requirement for bond coverage of officers and employees that handle funds. Nothing in the Act indicates that the Department of Financial Institutions has the authority to require bond coverage for losses caused by the unlawful acts of third parties or "directors" and "committee members." "Officials," which would indicate directors and committee members, are explicitly named as permissible insureds under the federal rules but not, explicitly, in the Illinois state statute. This legislation would make the federal and state regulations consistent in this regard.

Summary

Amends Section 30 of the Credit Union Act (Ill. Rev. Stat. 1984 Supp., ch. 17, par. 4431) to permit the Department of Financial Institutions to require credit unions to provide fidelity bond and insurance coverage for the unlawful acts of third persons and credit union officials in addition to officers and employees of the credit union having custody of or handling funds, in order to be consistent with Federal regulations. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 17, par. 4431)

Amends The Credit Union Act. Requires the Board of Directors of any credit union subject to that Act to provide general insurance coverage for the unlawful acts of third persons and changes from "officers and employees having custody of or handling funds" to "officials and employees", those persons for whom the Board must provide adequate fidelity bond coverage. Effective immediately.

LRB8407889SFtc

A BILL FOR

1 AN ACT to amend Section 30 of "The Illinois Credit Union 53
2 Act", approved August 30, 1979, as amended. 55

3 Be it enacted by the People of the State of Illinois, 59
4 represented in the General Assembly:

5 Section 1. Section 30 of "The Illinois Credit Union 61
6 Act", approved August 30, 1979, as amended, is amended to 62
7 read as follows:

(Ch. 17, par. 4431) 64

8 Sec. 30. Duties of Directors. It shall be the duty of 66
9 the Directors to:

10 (1) Review the Membership Committee's actions on 68
11 applications for membership. A record of the Membership 69
12 Committee's approval or denial of membership shall be 70
13 available to the Board of Directors for inspection. A person 71
14 denied membership by the Membership Committee may appeal the 72
15 denial to the Board;

16 (2) Provide adequate fidelity bond coverage for 74
17 officials, officers and employees of credit unions, and 75
18 general insurance coverage for the unlawful acts of third 76
19 persons, having custody-of-or-handling-funds subject to rules
20 and regulations promulgated by the Director; 77

21 (3) Determine from time to time the interest rates, not 79
22 in excess of that allowed under this Act, which shall be 80
23 charged on loans to members and to authorize interest 81
24 refunds, if any, to members from income earned and received
25 in proportion to the interest paid by them on such classes of 82
26 loans and under such conditions as the Board prescribes. The 83
27 Directors may establish different interest rates to be 84
28 charged on different classes of loans;

29 (4) Within any limitations set forth in the credit 86
30 union's bylaws, fix the maximum amount which may be loaned 87
31 with and without security to a member;

32 (5) Declare dividends on various classes of shares in 89

1	the manner and form as provided in the bylaws;	90
2	(6) Limit the number of shares which may be owned by a	92
3	member; such limitations to apply alike to all members;	93
4	(7) Have charge of the investment of funds, except that	95
5	the Board of Directors may designate an Investment Committee	96
6	or any qualified individual or entity to have charge of	97
7	making investments under policies established by the Board of	98
8	Directors;	
9	(8) Authorize the employment of or contracting with such	100
10	persons or organizations as may be necessary to carry on the	101
11	operations of the credit union; and fix the compensation, if	102
12	any, of the officers and provide for compensation for other	103
13	employees within policies established by the Board of	
14	Directors;	
15	(9) Authorize the conveyance of property;	105
16	(10) Borrow or lend money consistent with the provisions	107
17	of this Act;	
18	(11) Designate a depository or depositories for the	109
19	funds of the credit union and supervise the investment of	110
20	funds;	
21	(12) Suspend or remove, or both, for cause, any or all	112
22	officers or any or all members of the Membership, Credit,	113
23	Supervisory or other committees for failure to perform their	114
24	duties;	
25	(13) Appoint any special committees deemed necessary;	116
26	and,	
27	(14) Perform such other duties as the members may	118
28	direct, and perform or authorize any action not inconsistent	119
29	with this Act and not specifically reserved by the bylaws to	120
30	the members.	121
31	Section 2. This Act takes effect upon its becoming a law.	123

BILL 11

Background

During the review of the Department of Financial Institutions' emergency rules entitled "Illinois Credit Union Act" (Ill. Rev. Stat. 1983, ch. 17, par. 4409(2)), the Joint Committee on Administrative Rules found that the Department lacked the statutory authority to require that credit unions seek prior approval by the Department before contracting with credit union service organizations. The Credit Union Act as it currently reads clearly places the hiring of service organizations under the discretionary authority of the Director of a credit union.

The Department indicated that this authority was necessary in order to adequately regulate credit unions. The Department stated that service organizations may provide a way for credit unions to hide records of their financial actions because the Department cannot examine the records of the service organizations. In addition, the Department noted that service organizations are a new development in the industry, and the approval process will provide the Department with a way of studying these organizations. Because the Joint Committee agreed with the Department's need to regulate service organizations, it has recommended that legislation be drafted to provide the Department with the authority to require prior approval.

Summary

Amends Section 4431 of the Illinois Credit Union Act (Ill. Rev. Stat. 1984 Supp., ch. 17, par. 4431) to require a credit union to obtain approval from the Department prior to loaning to, investing in, or participating in credit union service organizations. Effective immediately.

Legislative Drafting Request

Summary

Amends Section 4431 of the Illinois Credit Union Act (Ill. Rev. Stat. 1984 Supp., ch. 17, par. 4431) to require a credit union to obtain approval from the Department prior to loaning to, investing in, or participating in credit union service organizations. Effective immediately.

Drafting Notes

Section 1. Amend Section 30 as follows:

(Ill. Rev. Stat., 1984 Supp., ch. 17, par. 4431)

Section 30. Duties of Directors. It shall be the duty of the Directors to:

(1) Review the Membership Committee's actions on applications for membership. A record of the Membership Committee's approval or denial of membership shall be available to the Board of Directors for inspection. A person denied membership by the Membership Committee may appeal the denial to the Board;

(2) Provide adequate fidelity bond coverage for officers and employees having custody of or handling funds subject to rules and regulations promulgated by the Director;

(3) Determine from time to time the interest rates, not in excess of that allowed under this Act, which shall be charged on loans to members and to authorize interest refunds, if any, to members from income earned and received in proportion to the interest paid by them on such classes of loans and under such conditions as the Board prescribes. The Directors may establish different interest rates to be charged on different classes of loans;

(4) Within any limitations set forth in the credit union's bylaws, fix the maximum amount which may be loaned with and without security to a member;

(5) Declare dividends on various classes of shares in the manner and form as provided in the bylaws;

(6) Limit the number of shares which may be owned by a member; such limitations to apply alike to all members;

(7) Have charge of the investment of funds, except that the Board of Directors may designate an Investment Committee or any qualified individual or entity to have charge of making investments under policies established by the Board of Directors;

(8) Authorize the employment of or contracting with such persons or organizations as may be necessary to carry on the operations of the credit union, provided that prior approval for loaning to, investing in or

participating in credit union service organizations is received from the Department; and fix the compensation, if any, of the officers and provide for compensation for other employees within policies established by the Board of Directors:

- (9) Authorize the conveyance of property;
- (10) Borrow or lend money consistent with the provisions of this Act;
- (11) Designate a depository or depositories for the funds of the credit union and supervise the investment of funds;
- (12) Suspend or remove, or both, for cause, any or all officers or any or all members of the Membership, Credit, Supervisory or other committees for failure to perform their duties;
- (13) Appoint any special committees deemed necessary; and
- (14) Perform such other duties as the members may direct, and perform or authorize any action not inconsistent with this Act and not specifically reserved by the bylaws to the members.

Section 2. This Act shall take effect upon becoming a law.

044E:ldraft

BILL 12

Background

During its review of two Department of Public Aid rules regarding State residency requirements for the Aid to the Aged, Blind, and Disabled and Medical Assistance programs (89 Ill. Adm. Code 113 and 120), the Joint Committee on Administrative Rules discovered that these requirements were not consistent with federal residency requirements for the programs. The Public Aid Code (Ill. Rev. Stat. 1983, ch. 23, par. 2-10) requires that an individual must have established a permanent home in the State, and must be employed, engaged in other self-support activities, or maintained by relatives or by other sources or means of support, in order to be a resident. Federal rules require that the state of residence of a recipient be the state where the recipient is living and that the recipient have a job commitment or be seeking employment (whether or not currently employed). Because of the inconsistency between State and federal residency requirements, the Joint Committee recommended that the Department seek legislation to amend the State's residency requirements for various programs.

Summary

Amends Section 2-10 of the Public Aid Code (Ill. Rev. Stat. 1983, ch. 23, par. 2-10) to bring residency requirements contained in this Section into compliance with federal residency requirements for all public aid programs which do not have more specific residency requirements. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 23, par. 2-10)

Amends the Public Aid Code. Permits residence to be established by seeking employment in this State. Effective immediately.

LRB8407579DAmr

Fiscal Note Act
may be applicable

A BILL FOR

1	AN ACT to amend Section 2-10 of "The Illinois Public Aid	43
2	Code", approved April 11, 1967, as amended.	45
3	<u>Be it enacted by the People of the State of Illinois,</u>	49
4	<u>represented in the General Assembly:</u>	
5	Section 1. Section 2-10 of "The Illinois Public Aid	51
6	Code", approved April 11, 1967, as amended, is amended to	52
7	read as follows:	
	(Ch. 23, par. 2-10)	54
8	Sec. 2-10. "Residence": The establishment of a permanent	56
9	home within this State.	
10	A person is deemed to have established his permanent home	58
11	within this State if he has acquired by purchase, rental, or	59
12	other arrangement housing facilities which he uses as his	60
13	home; has located his household equipment, furnishings and	61
14	personal belongings therein; and is or has been employed, <u>is</u>	62
15	<u>seeking employment</u> , or <u>is</u> engaged in other self-support	63
16	activity, in the community in which he lives or within a	64
17	distance reasonably proximate thereto, within or without the	65
18	State, which is accessible to his home by public or private	66
19	transportation facilities and to which he regularly commutes,	67
20	or, if he cannot engage in employment or other self-support	
21	activity, is maintained in such home by relatives responsible	68
22	for his support or by other sources or means of maintenance	69
23	and support. However, a recipient who moves from this State	70
24	for the purpose of obtaining employment or other means of	71
25	support or care shall retain his residence eligibility for a	72
26	period of 12 months, provided he has not acquired residence	73
27	eligibility for public aid under the laws of any State to	74
28	which he has moved.	
29	The residence of a married woman shall be that of her	75
30	husband unless they are living separate and apart, in which	77
31	case she may acquire a separate residence.	78
32	Minor children shall have the residence of their father	80

1	if they reside with him; if they reside with their mother	81
2	they shall have her residence.	82
3	A minor, neither of whose parents has acquired a	84
4	residence, may acquire a residence as if he or she were a	85
5	person of full age.	
6	Every minor upon marriage may acquire a residence as if	87
7	he or she were a person of full age.	88
8	Applicants for or recipients of public aid shall meet	90
9	such durational requirements as to residence as may be	91
10	specified in the Article governing the category under which	92
11	they are applying for or receiving aid.	93
12	Temporary absence from the State, absence while in the	95
13	service of the State or Nation, or entry into a hospital or	96
14	other medical care institution outside the State for medical	97
15	treatment, shall not affect a person's residence.	98
16	A recipient of aid under Article III, IV or VI who, for	100
17	any reason, has remained outside the State for a continuous	101
18	period of more than 12 months shall prima facie be presumed	102
19	to have lost his residence and shall receive no further aid	103
20	unless and until he submits evidence sufficient to prove he	104
21	has retained his residence. If the evidence proves that the	105
22	absence was without intention to change his residence, the	106
23	recipient shall be deemed to have maintained his residence	107
24	eligibility and the grant of aid shall be continued or	
25	resumed.	108
26	Section 2. This Act takes effect upon its becoming a law.	110

BILL 13

Background

At its November 14, 1985 meeting, the Joint Committee on Administrative Rules directed staff to develop legislation to amend the Hospice Program Licensing Act. Specifically, this legislative proposal explicitly grants the Department of Public Health the authority to issue licenses to substandard hospice programs based upon an acceptable plan of correction for the facilities not in compliance with the Hospice Program Licensing Act and the Department's rules governing hospice programs (77 Ill. Adm. Code 280). Section 7 of the Hospice Licensing Act requires that the Department of Public Health shall issue a license if it finds "the applicant is in compliance with this Act and the minimum standards established pursuant to the Act" The Act makes no reference to issuing a license to a substandard program based upon a plan of correction.

The Department responded to the Joint Committee's concerns by stating that it encourages the orderly development of hospice programs and that the intent of the Act is to ensure that persons requiring hospice services receive the best quality care. The Department also stated that "no program is in compliance with every requirement of the Act and regulations at all times," and that without the ability to issue licenses based on corrective action plans for proper enforcement of the rules, would result in the Department constantly having each hospice in administrative hearings aimed at the withdrawal of licensing.

For these reasons, the Joint Committee has directed that legislation be proposed to grant the Department of Public Health the authority to renew a hospice program which is not in compliance with the Hospice Program Licensing Act and the Department's rules governing hospice programs based upon the submission of an acceptable plan of correction by the hospice.

Summary

Amend Section 7 of the Hospice Program Licensing Act (Ill. Rev. Stat. 1983 ch. 111½, par. 6107) to grant the Department of Public Health the authority to renew a hospice license to a hospice program which is not in compliance with the Hospice Program Licensing Act and the Department's rules governing hospice programs based upon submission of an acceptable plan of correction by the hospice. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 111 1/2, par. 6107)

Amends The Hospice Program Licensing Act. Establishes as an alternative licensing requirement that an applicant submit to the Illinois Department of Public Health an acceptable plan for the correction of deficiencies discovered as the result of an inspection. Requires the Department to establish standards by which plans to correct such deficiencies will be acceptable. Effective immediately.

LRB8407705SFtc

A BILL FOR

1 AN ACT to amend Section 7 of "The Hospice Program 55
2 Licensing Act", approved September 17, 1983, as amended. 57

3 Be it enacted by the People of the State of Illinois, 61
4 represented in the General Assembly:

5 Section 1. Section 7 of "The Hospice Program Licensing 63
6 Act", approved September 17, 1983, as amended, is amended to 64
7 read as follows:

(Ch. 111 1/2, par. 6107) 66

8 Sec. 7. Issuance of License - Renewal. Upon receipt of 68
9 a completed application for license or renewal the Department 69
10 shall issue a license if the Department finds:

11 (1) The applicant is in compliance with this Act and the 71
12 minimum standards established pursuant to this Act as shown 72
13 by the inspection performed pursuant to Section 6; or 73

14 (2) The applicant submits to the Department an 75
15 acceptable plan for the correction of deficiencies discovered 76
16 by the Department during the inspection performed pursuant to 77
17 Section 6. The Department shall establish, by rule, the 78
18 standards it uses to determine whether such a plan is 79
19 acceptable; and

20 (3) ~~(2)~~ The affiliated agency has maintained compliance 81
21 with the standards established pursuant to its applicable 82
22 licensing Act, if any. 83

23 Section 2. This Act takes effect upon its becoming a law. 85

BILL 14

Background

On September 19, 1985, the Joint Committee on Administrative Rules issued a recommendation for legislation pertaining to the Illinois Income Tax Act. The legislation specifically authorizes the reduction of the add-back provision in an amount which the taxpayer would otherwise be entitled to take as a charitable deduction, which has been implemented by the Department of Revenue, by rule, in an attempt to clarify deductions by certain taxpayers of money which was a capital gain but also permanently set aside for charitable purposes.

Generally, federal income tax applies to the taxable income of estates or any kind of property held in trust. However, Section 643(c)(2) of the Internal Revenue Code allows certain estates and trusts a deduction for money which is "permanently set aside" for charitable purposes. Section 1202(a) of the Code allows certain taxpayers a 60% deduction from gross income of the amount of net capital gain. In order to prevent a double deduction in the instance where an estate or trust earns capital gain income which is permanently set aside for charitable purposes, Section 643(c)(4) of the Code provides that capital gain income permanently set aside for charitable purposes must be adjusted pursuant to any capital gain deduction taken under Section 1202.

Illinois tax law imposes a tax on "base income." Estate or Trust base income under Illinois law is defined as the taxable income under the Internal Revenue Code except modified by the section in question (2-203(c)). This section provides that the base income is modified in an amount equal to the capital gain deduction allowable under Section 1202 of the Internal Revenue Code. The result is that any capital gain deduction allowable under Section 1202 of the Code would be added back to the taxable income leaving the taxpayer with a charitable deduction which has already been reduced by the amount of capital gains pursuant to Section 643(c)(4) of the Code.

The Department's interpretation of these provisions was recently challenged by a taxpayer who refused to add-back the capital gain deduction which as taken in computing federal tax on amounts permanently set aside for charity. The result of this dispute was the proposal of the Department's rules which would allow the taxpayer to reduce the amount required to be added back by Section 2-203(c)(2) by the amount thereof which relates to capital gain income set aside for charitable purposes pursuant to Section 652(c) thus allowing the taxpayer to get full charitable deduction.

The Department's approach through its rulemaking proposal seemed to solve the problem of double deduction, while still allowing the taxpayer his full charitable deduction. The Department's rulemaking is however, without statutory authority. The Joint Committee has therefore recommended that the Illinois Income Tax Act be amended to specifically authorize the reduction of the add-back provision of Section 2-203(c)(2)(B) in an amount which the taxpayer would otherwise be entitled to take as a charitable deduction.

Summary

Amends Section 2-203(c)(2)(B) of the Illinois Income Tax Act (Ill. Rev. Stat. 1985 Supp., ch. 120, par. 2-203) to specifically authorize the reduction of the add-back provision of 2-203(c)(2)(B) in an amount which the taxpayer would otherwise be entitled to take as a charitable deduction. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 120, par. 2-203)

Amends the Illinois Income Tax Act. Specifies that amounts of capital gain income for which a trust or estate is entitled to a charitable deduction for federal income tax purposes shall not be added to taxable income for Illinois Income Tax purposes. Effective immediately.

LRB8407710RLks

FISCAL NOTE ACT
MAY BE APPLICABLE

A BILL FOR

1	AN ACT to amend Section 203 of the "Illinois Income Tax	51
2	Act", approved July 1, 1969, as amended.	53
3	<u>Be it enacted by the People of the State of Illinois,</u>	57
4	<u>represented in the General Assembly:</u>	
5	Section 1. Section 203 of the "Illinois Income Tax Act",	60
6	approved July 1, 1969, as amended, is amended to read as	61
7	follows:	
	(Ch. 120, par. 2-203)	63
8	Sec. 203. Base income defined. (a) Individuals.	65
9	(1) In general. In the case of an individual, base	67
10	income means an amount equal to the taxpayer's adjusted gross	68
11	income for the taxable year as modified by paragraph (2).	69
12	(2) Modifications. The adjusted gross income referred	71
13	to in paragraph (1) shall be modified by adding thereto the	72
14	sum of the following amounts:	73
15	(A) An amount equal to all amounts paid or accrued to	75
16	the taxpayer as interest or dividends during the taxable year	76
17	to the extent excluded from gross income in the computation	77
18	of adjusted gross income, except stock dividends of qualified	78
19	public utilities described in Section 305(e) of the Internal	79
20	Revenue Code;	
21	(B) An amount equal to the amount of the deduction	81
22	allowable under Section 1202 of the Internal Revenue Code, to	82
23	the extent deducted from gross income in the computation of	83
24	adjusted gross income;	
25	(C) An amount equal to the amount of tax imposed by this	85
26	Act to the extent deducted from gross income in the	86
27	computation of adjusted gross income for the taxable year;	87
28	and	
29	(D) An amount equal to the amount received during the	89
30	taxable year as a recovery or refund of real property taxes	90
31	paid with respect to the taxpayer's principal residence under	91
32	the Revenue Act of 1939 and for which a deduction was	92

1 previously taken under subparagraph (K) of this paragraph 93
2 (2). In the case of multi-unit or multi-use structures and
3 farm dwellings, the taxes on the taxpayer's principal 94
4 residence shall be that portion of the total taxes for the 95
5 entire property which is attributable to such principal 96
6 residence;
7 and by deducting from the total so obtained the sum of 98
8 the following amounts: 7
9 (E) Any amount included in such total in respect of any 100
10 compensation (including but not limited to any compensation 101
11 paid or accrued to a serviceman while a prisoner of war or 102
12 missing in action) paid to a resident by reason of being on 103
13 active duty in the Armed Forces of the United States and in 104
14 respect of any compensation paid or accrued to a resident who 105
15 as a governmental employee was a prisoner of war or missing
16 in action, and in respect of any compensation paid to a 106
17 resident in 1971 or thereafter for annual training performed 107
18 pursuant to Sections 502 and 503, Title 32, United States 108
19 Code as a member of the Illinois National Guard; 109
20 (F) An amount equal to all amounts included in such 111
21 total pursuant to the provisions of Sections 402(a), 402(c), 112
22 402(d), 403(a), 403(b), 405(d), 406(a), 407(a), 408 and 409 113
23 of the Internal Revenue Code, or included in such total as 114
24 distributions under the provisions of any retirement or 115
25 disability plan for employees of any governmental agency or 116
26 unit, or retirement payments to retired partners, which
27 payments are excluded in computing net earnings from self 117
28 employment by Section 1402 of the Internal Revenue Code and 118
29 regulations adopted pursuant thereto;
30 (G) The valuation limitation amount; 120
31 (H) An amount equal to the amount of any tax imposed by 122
32 this Act which was refunded to the taxpayer and included in 123
33 such total for the taxable year; 124
34 (I) An amount equal to all amounts included in such 126
35 total pursuant to the provisions of Section 111 of the 127

1	Internal Revenue Code as a recovery of items previously	128
2	deducted from adjusted gross income in the computation of	129
3	taxable income;	
4	(J) An amount equal to those dividends included in such	131
5	total which were paid by a corporation which conducts	132
6	business operations in an Enterprise Zone or zones created	133
7	under the Illinois Enterprise Zone Act, and conducts	134
8	substantially all of its operations in an Enterprise Zone or	
9	zones;	
10	(J-1) An amount equal to those dividends included in	136
11	such total that were paid by a corporation that conducts	137
12	business operations in a federally designated Foreign Trade	138
13	Zone or Zones and that is designated a High Impact Business	139
14	located in Illinois; provided that dividends eligible for the	
15	deduction provided in subparagraph (J) of paragraph (2) of	140
16	this subsection shall not be eligible for the deduction	141
17	provided under this subparagraph (J-1);	
18	(K) An amount equal to the amount of real property taxes	143
19	imposed and paid during the taxable year under the Revenue	144
20	Act of 1939 on a taxpayer's principal residence to be called	145
21	the "Homeowner's Property Tax Relief Deduction". In the case	146
22	of multi-unit or multi-use structures and farm dwellings, the	147
23	taxes on the taxpayer's principal residence shall be that	148
24	portion of the total taxes which is attributable to such	
25	principal residence;	
26	(L) For taxable years ending after December 31, 1983, an	150
27	amount equal to all social security benefits and railroad	151
28	retirement benefits included in such total pursuant to	152
29	Sections 72(r) and 86 of the Internal Revenue Code;	
30	(M) An amount equal to the sum of all amounts disallowed	154
31	as deductions by Sections 171(a), (2), and 265(2) of the	155
32	Internal Revenue Code of 1954, as now or hereafter amended,	156
33	and all amounts of expenses allocable to interest and	157
34	disallowed as deductions by Section 265(1) of the Internal	158
35	Revenue Code of 1954, as now or hereafter amended;	

1 {N} 160

2 (N) {P} {Q} An amount equal to 25% 25-percent of all 162

3 amounts paid or accrued on behalf of employees for 164

4 educational or vocational training courses in semi-technical

5 or technical fields or semi-skilled or skilled vocational 165

6 fields and which were deducted from gross income in the 167

7 computation of adjusted gross income; 168

8 {P} 170

9 (O) {Q} An amount equal to all amounts included in such 172

10 total which are exempt from taxation by this State either by 173

11 reason of its Constitution or by reason of the Constitution, 174

12 treaties or statutes of the United States; and 175

13 (P) An amount equal to any contribution made to a job 177

14 training project established pursuant to the "Real Property 178

15 Tax Increment Allocation Redevelopment Act", certified 179

16 January 10, 1977, as amended; and -

17 (Q) {R} An amount equal to the cost of any contribution 181

18 made to a community-based organization pursuant to "An Act to 182

19 award income tax deductions to businesses which contribute 183

20 money or resources to community groups, amending certain Acts 184

21 therein named".

22 (b) Corporations. 186

23 (1) In general. In the case of a corporation, base 188

24 income means an amount equal to the taxpayer's taxable income 189

25 for the taxable year as modified by paragraph (2). 190

26 (2) Modifications. The taxable income referred to in 192

27 paragraph (1) shall be modified by adding thereto the sum of 193

28 the following amounts:

29 (A) An amount equal to all amounts paid or accrued to 195

30 the taxpayer as interest during the taxable year to the 196

31 extent excluded from gross income in the computation of 197

32 taxable income;

33 (B) An amount equal to the amount of tax imposed by this 199

34 Act to the extent deducted from gross income in the 200

35 computation of taxable income for the taxable year; 201

1	(C) In the case of a regulated investment company or	203
2	real estate investment trust, an amount equal to the excess	204
3	of (i) the net long-term capital gain for the taxable year,	205
4	over (ii) the amount of the capital gain dividends	206
5	attributable to the taxable year;	
6	(D) In the case of a Western Hemisphere trade	208
7	corporation, China Trade Act corporation, or possessions	209
8	company described in Section 931(a) of the Internal Revenue	210
9	Code, an amount equal to the amount deducted or excluded from	211
10	gross income in the computation of taxable income for the	212
11	taxable year on account of the special deductions and	213
12	exclusions (but in the case of a possessions company, net of	
13	the deductions allocable thereto) allowed such corporations	214
14	under the Internal Revenue Code;	215
15	(E) The amount of any net operating loss deduction taken	217
16	in arriving at taxable income, other than a net operating	218
17	loss carried forward from a taxable year ending prior to	219
18	December 31, 1986; and	
19	(F) For taxable years in which a net operating loss	221
20	carryback or carryforward from a taxable year ending prior to	222
21	December 31, 1986 is an element of taxable income under	223
22	paragraph (1) of subsection (e) or subparagraph (E) of	
23	paragraph (2) of subsection (e), the amount by which addition	224
24	modifications other than those provided by this subparagraph	225
25	(F) exceeded subtraction modifications in such earlier	226
26	taxable year, with the following limitations applied in the	227
27	order that they are listed:	
28	(i) the addition modification relating to the net	229
29	operating loss carried back or forward to the taxable year	230
30	from any taxable year ending prior to December 31, 1986 shall	231
31	be reduced by the amount of addition modification under this	233
32	subparagraph (F) which related to that net operating loss and	
33	which was taken into account in calculating the base income	234
34	of an earlier taxable year, and	235
35	(ii) the addition modification relating to the net	237

1	operating loss carried back or forward to the taxable year	238
2	from any taxable year ending prior to December 31, 1986 shall	239
3	not exceed the amount of such carryback or carryforward;	240
4	For taxable years in which there is a net operating loss	242
5	carryback or carryforward from more than one other taxable	243
6	year ending prior to December 31, 1986, the addition	244
7	modification provided in this subparagraph (F) shall be the	245
8	sum of the amounts computed independently under the preceding	246
9	provisions of this subparagraph (F) for each such taxable	247
10	year,	
11	and by deducting from the total so obtained the sum of	249
12	the following amounts:	250
13	(G) An amount equal to the amount of any tax imposed by	252
14	this Act which was refunded to the taxpayer and included in	253
15	such total for the taxable year;	254
16	(H) An amount equal to any amount included in such total	256
17	under Section 78 of the Internal Revenue Code;	257
18	(I) In the case of a regulated investment company, an	259
19	amount equal to the amount of exempt interest dividends as	260
20	defined in subsection (b) (5) of Section 852 of the Internal	261
21	Revenue Code, paid to shareholders for the taxable year;	262
22	(J) An amount equal to the sum of all amounts disallowed	264
23	as deductions by Sections 171(a), (2), and 265(2) and amounts	265
24	disallowed as interest expense by Section 291(a)(3) of the	266
25	Internal Revenue Code of 1954, as now or hereafter amended,	267
26	and all amounts of expenses allocable to interest and	268
27	disallowed as deductions by Section 265(1) of the Internal	269
28	Revenue Code of 1954, as now or hereafter amended;	
29	(K) An amount equal to all amounts included in such	271
30	total which are exempt from taxation by this State either by	272
31	reason of its Constitution or by reason of the Constitution,	273
32	treaties or statutes of the United States;	
33	(L) An amount equal to those dividends included in such	275
34	total which were paid by a corporation which conducts	277
35	business operations in an Enterprise Zone or zones created	

1 under the Illinois Enterprise Zone Act, conducts 278
2 substantially all of its operations in an Enterprise Zone or 279
3 zones;
4 (L-1). An amount equal to those dividends included in 281
5 such total that were paid by a corporation that conducts 282
6 business operations in a federally designated Foreign Trade 283
7 Zone or Zones and that is designated a High Impact Business 284
8 located in Illinois; provided that dividends eligible for the
9 deduction provided in subparagraph (L) of paragraph 2 of this 285
10 subsection shall not be eligible for the deduction provided 286
11 under this subparagraph (L-1);
12 (M) For any taxpayer that is a financial organization 288
13 within the meaning of Section 304(c) of this Act, an amount 289
14 included in such total as interest income from a loan or 290
15 loans made by such taxpayer to a borrower, to the extent that 291
16 such a loan is secured by property which is eligible for the 292
17 Enterprise Zone Investment Credit. To determine the portion 293
18 of a loan or loans that is secured by property eligible for a 294
19 Section 201(h) investment credit to the borrower, the entire 295
20 principal amount of the loan or loans between the taxpayer 296
21 and the borrower should be divided into the basis of the 297
22 Section 201(h) investment credit property which secures the 298
23 loan or loans, using for this purpose the original basis of 299
24 such property on the date that it was placed in service in
25 the Enterprise Zone. The subtraction modification available 300
26 to taxpayer in any year under this subsection shall be that 301
27 portion of the total interest paid by the borrower with 302
28 respect to such loan attributable to the eligible property as
29 calculated under the previous sentence; 303
30 (M-1) For any taxpayer that is a financial organization 305
31 within the meaning of Section 304(c) of this Act, an amount 306
32 included in such total as interest income from a loan or 307
33 loans made by such taxpayer to a borrower, to the extent that 308
34 such a loan is secured by property which is eligible for the 309
35 High Impact Business Investment Credit. To determine the

1 portion of a loan or loans that is secured by property 310
2 eligible for a Section 201(i) investment credit to the 311
3 borrower, the entire principal amount of the loan or loans 312
4 between the taxpayer and the borrower should be divided into
5 the basis of the Section 201(i) investment credit property 313
6 which secures the loan or loans, using for this purpose the 314
7 original basis of such property on the date that it was 315
8 placed in service in a federally designated Foreign Trade 316
9 Zone or Zones located in Illinois. No taxpayer that is
10 eligible for the deduction provided in subparagraph (M) of 317
11 paragraph (2) of this subsection shall be eligible for the 318
12 deduction provided under this subparagraph (M-1). The 319
13 subtraction modification available to taxpayers in any year 320
14 under this subsection shall be that portion of the total
15 interest paid by the borrower with respect to such loan 321
16 attributable to the eligible property as calculated under the 323
17 previous sentence;

18 (N) Two times any contribution made during the taxable 325
19 year to a designated zone organization to the extent that the 326
20 contribution (i) qualifies as a charitable contribution under 327
21 subsection (c) of Section 170 of the Internal Revenue Code 328
22 and (ii) must, by its terms, be used for a project approved 329
23 by the Department of Commerce and Community Affairs under 330
24 Section 11 of the Illinois Enterprise Zone Act;

25 (O) An amount equal to: (i) 85% of the amount by which 332
26 dividends included in taxable income and received from a 333
27 corporation that is not created or organized under the laws 334
28 of the United States or any state or political subdivision 335
29 thereof exceed the amount of the modification provided under
30 subparagraph (H) of paragraph (2) of this subsection (b) 336
31 which is related to such dividends; plus (ii) 100% of the 337
32 amount by which dividends, included in taxable income and 338
33 received from any such corporation specified in clause (i) 339
34 that would but for the provisions of Section 1504 (b) (3) of
35 the Internal Revenue Code be treated as a member of the 340

1 affiliated group which includes the dividend recipient, 341
2 exceed the amount of the modification provided under 342
3 subparagraph (H) of paragraph (2) of this subsection (b)
4 which is related to such dividends; τ 343
5 (P) An amount equal to 25% ~~25-percent~~ of all amounts paid 345
6 or accrued on behalf of employees for educational or 347
7 vocational training courses in semi-technical or technical 348
8 fields or semi-skilled or skilled vocational fields and which 349
9 were deducted from gross income in the computation of taxable
10 income; and 350
11 (Q) An amount equal to any contribution made to a job 352
12 training project established pursuant to the "Real Property 353
13 Tax Increment Allocation Redevelopment Act", certified 354
14 January 10, 1977, as amended; and τ
15 (R) An amount equal to the cost of any contribution made 356
16 to a community-based organization pursuant to "An Act to 357
17 award income tax deductions to businesses which contribute 358
18 money or resources to community groups, amending certain Acts 359
19 therein named".
20 (3) Special rule. For purposes of paragraph (2) (A), 361
21 "gross income" in the case of a life insurance company shall 362
22 mean the company's share of the gross investment income for 363
23 the taxable year.
24 (c) Trusts and estates. 365
25 (1) In general. In the case of a trust or estate, base 367
26 income means an amount equal to the taxpayer's taxable income 368
27 for the taxable year as modified by paragraph (2). 369
28 (2) Modifications. Subject to the provisions of 371
29 paragraph (3), the taxable income referred to in paragraph 372
30 (1) shall be modified by adding thereto the sum of the 373
31 following amounts:
32 (A) An amount equal to all amounts paid or accrued to 375
33 the taxpayer as interest or dividends during the taxable year 376
34 to the extent excluded from gross income in the computation 377
35 of taxable income;

1 (B) An amount equal to the amount of the deduction 379
2 allowable under Section 1202 of the Internal Revenue Code, to 381
3 the extent deducted from gross income in the computation of 382
4 taxable income, provided the amount of any deduction 383
5 allowable under Section 1202 of the Internal Revenue Code
6 which would otherwise be required to be added to the taxable 384
7 income of a trust or estate pursuant to this paragraph (B) 385
8 shall be reduced by the amount thereof which relates to 386
9 capital gain income for which the trust or estate is entitled 387
10 to a charitable deduction under Section 642(c) of the
11 Internal Revenue Code;
12 (C) In the case of (i) an estate, \$600; (ii) a trust 389
13 which, under its governing instrument, is required to 390
14 distribute all of its income currently, \$300; and (iii) any 391
15 other trust, \$100, but in each such case, only to the extent 392
16 such amount was deducted in the computation of taxable 393
17 income;
18 (D) An amount equal to the amount of tax imposed by this 395
19 Act to the extent deducted from gross income in the 396
20 computation of taxable income for the taxable year; 397
21 (E) The amount of any net operating loss deduction taken 399
22 in arriving at taxable income, other than a net operating 400
23 loss carried forward from a taxable year ending prior to 401
24 December 31, 1986; and
25 (F) For taxable years in which a net operating loss 403
26 carryback or carryforward from a taxable year ending prior to 404
27 December 31, 1986 is an element of taxable income under 405
28 paragraph (1) of subsection (e) or subparagraph (E) of
29 paragraph (2) of subsection (e), the amount by which addition 406
30 modifications other than those provided by this subparagraph 407
31 (F) exceeded subtraction modifications in such taxable year, 408
32 with the following limitations applied in the order that they 409
33 are listed:
34 (i) the addition modification relating to the net 411
35 operating loss carried back or forward to the taxable year 412

1 from any taxable year ending prior to December 31, 1986 shall 413
2 be reduced by the amount of addition modification under this 415
3 subparagraph (F) which related to that net operating loss and
4 which was taken into account in calculating the base income 416
5 of an earlier taxable year, and 417
6 (ii) the addition modification relating to the net 419
7 operating loss carried back or forward to the taxable year 420
8 from any taxable year ending prior to December 31, 1986 shall 421
9 not exceed the amount of such carryback or carryforward; 422
10 For taxable years in which there is a net operating loss 424
11 carryback or carryforward from more than one other taxable 425
12 year ending prior to December 31, 1986, the addition 426
13 modification provided in this subparagraph (F) shall be the 427
14 sum of the amounts computed independently under the preceding 428
15 provisions of this subparagraph (F) for each such taxable 430
16 year,
17 and by deducting from the total so obtained the sum of 432
18 the following amounts: 433
19 (G) An amount equal to all amounts included in such 435
20 total pursuant to the provisions of Sections 402(a), 402(c), 436
21 402(d), 403(a), 403(b), 405(d), 406(a), 407(a), 408 and 409 437
22 of the Internal Revenue Code or included in such total as 438
23 distributions under the provisions of any retirement or 439
24 disability plan for employees of any governmental agency or 440
25 unit, or retirement payments to retired partners, which 441
26 payments are excluded in computing net earnings from self 442
27 employment by Section 1402 of the Internal Revenue Code and 442
28 regulations adopted pursuant thereto;
29 (H) The valuation limitation amount; 444
30 (I) An amount equal to the amount of any tax imposed by 446
31 this Act which was refunded to the taxpayer and included in 447
32 such total for the taxable year; 448
33 (J) An amount equal to all amounts included in taxable 450
34 income as modified by subparagraphs (A), (B), (C), (D), (E) 451
35 and (F) which are exempt from taxation by this State either 452

1 by reason of its Constitution or by reason of the 453
2 Constitution, treaties or statutes of the United States;
3 (K) An amount equal to the sum of all amounts disallowed 455
4 as deductions by Sections 171(a), (2) and 265(2) and amounts 456
5 disallowed as interest by Section 291(a)(3) of the Internal 457
6 Revenue Code of 1954, as now or hereafter amended, and all 458
7 amounts of expenses allocable to interest and disallowed as 459
8 deductions by Section 265(1) of the Internal Revenue Code of 460
9 1954, as now or hereafter amended;
10 (L) An amount equal to those dividends included in such 462
11 total which were paid by a corporation which conducts 464
12 business operations in an Enterprise Zone or zones created
13 under the Illinois Enterprise Zone Act, conducts 465
14 substantially all of its operations in an Enterprise Zone or 466
15 Zones; and
16 (M) An amount equal to any contribution made to a job 468
17 training project established pursuant to the "Real Property 469
18 Tax Increment Allocation Redevelopment Act", certified 470
19 January 10, 1977, as amended; -
20 (N) †M‡ An amount equal to the cost of any contribution 472
21 made to a community-based organization pursuant to "An Act to 473
22 award income tax deductions to businesses which contribute 474
23 money or resources to community groups, amending certain Acts 475
24 therein named"; and -
25 (O) †M‡ An amount equal to those dividends included in 477
26 such total that were paid by a corporation that conducts 478
27 business operations in a federally designated Foreign Trade 479
28 Zone or Zones and that is designated a High Impact Business 480
29 located in Illinois; provided that dividends eligible for the 481
30 deduction provided in subparagraph (L) of paragraph (2) of
31 this subsection shall not be eligible for the deduction 482
32 provided under this subparagraph (O) †M‡. 483
33 (3) Limitation. The amount of any modification 485
34 otherwise required under this subsection shall, under 486
35 regulations prescribed by the Department, be adjusted by any 487

1	amounts included therein which were properly paid, credited,	488
2	or required to be distributed for the taxable year.	
3	(d) Partnerships.	490
4	(1) In general. In the case of a partnership, base	492
5	income means an amount equal to the taxpayer's taxable income	493
6	for the taxable year as modified by paragraph (2).	494
7	(2) Modifications. The taxable income referred to in	496
8	paragraph (1) shall be modified by adding thereto the sum of	497
9	the following amounts:	
10	(A) An amount equal to all amounts paid or accrued to	499
11	the taxpayer as interest or dividends during the taxable year	500
12	to the extent excluded from gross income in the computation	501
13	of taxable income;	
14	(B) An amount equal to the amount of the deduction	503
15	allowed under Section 1202 of the Internal Revenue Code, to	504
16	the extent deducted from gross income in the computation of	505
17	taxable income;	
18	(C) An amount equal to the amount of tax imposed by this	507
19	Act to the extent deducted from gross income for the taxable	508
20	year; and	
21	(D) The amount of deductions allowed to the partnership	510
22	pursuant to Section 707 (c) of the Internal Revenue Code in	511
23	calculating its taxable income;	
24	and by deducting from the total so obtained the following	513
25	amounts:	
26	(E) The valuation limitation amount;	515
27	(F) An amount equal to the amount of any tax imposed by	517
28	this Act which was refunded to the taxpayer and included in	518
29	such total for the taxable year;	
30	(G) An amount equal to all amounts included in taxable	520
31	income as modified by subparagraphs (A), (B), (C) and (D)	521
32	which are exempt from taxation by this State either by reason	522
33	of its Constitution or by reason of the Constitution,	523
34	treaties or statutes of the United States;	
35	(H) Any income of the partnership which constitutes	525

1 personal service income as defined in Section 1348 (b) (1) of 526
2 the Internal Revenue Code (as in effect December 31, 1981) or 527
3 a reasonable allowance for compensation paid or accrued for 528
4 services rendered by partners to the partnership, whichever 529
5 is greater;

6 (I) An amount equal to all amounts of income 531
7 distributable to an entity subject to the Personal Property 532
8 Tax Replacement Income Tax imposed by subsections (c) and (d) 533
9 of Section 201 of this Act;

10 (J) An amount equal to the sum of all amounts disallowed 535
11 as deductions by Sections 171(a), (2), and 265(2) of the 536
12 Internal Revenue Code of 1954, as now or hereafter amended, 537
13 and all amounts of expenses allocable to interest and 538
14 disallowed as deductions by Section 265(1) of the Internal 539
15 Revenue Code of 1954, as now or hereafter amended;

16 (K) An amount equal to those dividends included in such 541
17 total which were paid by a corporation which conducts 542
18 business operations in an Enterprise Zone or zones created 543
19 under the Illinois Enterprise Zone Act, enacted by the 82nd 544
20 General Assembly, and which does not conduct such operations 545
21 other than in an Enterprise Zone or Zones; and 546

22 (L) An amount equal to any contribution made to a job 548
23 training project established pursuant to the "Real Property 549
24 Tax Increment Allocation Redevelopment Act", certified 550
25 January 10, 1977, as amended; -

26 (M) ~~(b)~~ An amount equal to the cost of any contribution 552
27 made to a community-based organization pursuant to "An Act to 553
28 award income tax deductions to businesses which contribute 554
29 money or resources to community groups, amending certain Acts 555
30 therein named"; and -

31 (N) ~~(b)~~ An amount equal to those dividends included in 557
32 such total that were paid by a corporation that conducts 558
33 business operations in a federally designated Foreign Trade 559
34 Zone or Zones and that is designated a High Impact Business 560
35 located in Illinois; provided that dividends eligible for the 561

1 deduction provided in subparagraph (K) of paragraph (2) of 561
2 this subsection shall not be eligible for the deduction 562
3 provided under this subparagraph (N) ~~(5)~~. 563
4 (e) Gross income; adjusted gross income; taxable income. 565
5 (1) In general. Subject to the provisions of paragraph 567
6 (2) and subsection (b) (3), for purposes of this Section and 568
7 Section 802(b), a taxpayer's gross income, adjusted gross 569
8 income, or taxable income for the taxable year shall mean the 570
9 amount of gross income, adjusted gross income or taxable 571
10 income properly reportable for federal income tax purposes 572
11 for the taxable year under the provisions of the Internal 573
12 Revenue Code. Taxable income may be less than zero. For 574
13 taxable years ending prior to December 31, 1986, taxable 575
14 income may never be an amount in excess of the net operating 576
15 loss for the taxable year as defined in subsections (c) and 577
16 (d) of Section 172 of the Internal Revenue Code, provided 578
17 that when taxable income of a corporation (other than a 580
18 Subchapter S corporation), trust, or estate is less than zero 582
19 and addition modifications, other than those provided by
20 subparagraph (F) of paragraph (2) of subsection (b) for 583
21 corporations or subparagraph (F) of paragraph (2) of 584
22 subsection (c) for trusts and estates, exceed subtraction 585
23 modifications, an addition modification must be made under
24 those subparagraphs for any other taxable year to which the 586
25 taxable income less than zero (net operating loss) is applied 587
26 under Section 172 of the Internal Revenue Code or under 588
27 subparagraph (E) of paragraph (2) of this subsection (e)
28 applied in conjunction with Section 172 of the Internal 589
29 Revenue Code.
30 (2) Special rule. For purposes of paragraph (1) of this 591
31 subsection, the taxable income properly reportable for 592
32 federal income tax purposes shall mean: 593
33 (A) Certain life insurance companies. In the case of a 595
34 life insurance company subject to the tax imposed by Section 596
35 801 of the Internal Revenue Code, life insurance company 597

1	taxable income;	597
2	(B) Certain mutual insurance companies. In the case of	599
3	a mutual insurance company subject to the tax imposed by	600
4	Section 821(a) or (c) of the Internal Revenue Code, mutual	601
5	insurance company taxable income or taxable investment	602
6	income, as the case may be;	
7	(C) Regulated investment companies. In the case of a	604
8	regulated investment company subject to the tax imposed by	605
9	Section 852 of the Internal Revenue Code, investment company	606
10	taxable income;	
11	(D) Real estate investment trusts. In the case of a	608
12	real estate investment trust subject to the tax imposed by	609
13	Section 857 of the Internal Revenue Code, real estate	610
14	investment trust taxable income;	
15	(E) Consolidated corporations. In the case of a	612
16	corporation which is a member of an affiliated group of	613
17	corporations filing a consolidated income tax return for the	614
18	taxable year for federal income tax purposes, taxable income	615
19	determined as if such corporation had filed a separate return	616
20	for federal income tax purposes for the taxable year and each	
21	preceding taxable year for which it was a member of an	617
22	affiliated group. For purposes of this subparagraph, the	618
23	taxpayer's separate taxable income shall be determined as if	619
24	the election provided by Section 243(b) (2) of the Internal	620
25	Revenue Code had been in effect for all such years;	621
26	(F) Cooperatives. In the case of a cooperative	623
27	corporation or association, the taxable income of such	624
28	organization determined in accordance with the provisions of	625
29	Section 1381 through 1388 of the Internal Revenue Code;	626
30	(G) Subchapter S corporations. In the case of: (i) a	628
31	Subchapter S corporation for which there is in effect an	629
32	election for the taxable year under Section 1362 of the	630
33	Internal Revenue Code, the taxable income of such corporation	631
34	determined in accordance with Section 1363(b) of the Internal	
35	Revenue Code, except that taxable income shall take into	633

1 account those items which are required by Section 1363(b)(1) 633
2 of the Internal Revenue Code to be separately stated; and 634
3 (ii) a Subchapter S corporation for which there is in effect 635
4 a federal election to opt out of the provisions of the 636
5 Subchapter S Revision Act of 1982 and have applied instead 637
6 the prior federal Subchapter S rules as in effect on July 1,
7 1982, the taxable income of such corporation determined in 638
8 accordance with the federal Subchapter S rules as in effect 639
9 on July 1, 1982; and

10 (H) Partnerships. In the case of a partnership, taxable 641
11 income determined in accordance with Section 703 of the 642
12 Internal Revenue Code, except that taxable income shall take 643
13 into account those items which are required by Section 644
14 703(a)(1) to be separately stated but which would be taken
15 into account by an individual in calculating his taxable 645
16 income.

17 (f) Valuation limitation amount. 647

18 (1) In general. The valuation limitation amount 649
19 referred to in subsections (a) (2) (G) and (c) (2) (H) is an 650
20 amount equal to:

21 (A) The sum of the pre-August 1, 1969 appreciation 652
22 amounts (to the extent consisting of gain reportable under 653
23 the provisions of Section 1245 or 1250 of the Internal 654
24 Revenue Code) for all property in respect of which such gain 655
25 was reported for the taxable year; plus

26 (B) The lesser of (i) the sum of the pre-August 1, 1969 657
27 appreciation amounts (to the extent consisting of capital 658
28 gain) for all property in respect of which such gain was 659
29 reported for federal income tax purposes for the taxable 660
30 year, or (ii) the net capital gain for the taxable year, 661
31 reduced in either case by any amount of such gain included in
32 the amount determined under subsection (a) (2) (F) or (c) (2) 662
33 (G).

34 (2) Pre-August 1, 1969 appreciation amount. 664

35 (A) If the fair market value of property referred to in 666

1 paragraph (1) was readily ascertainable on August 1, 1969, 667
2 the pre-August 1, 1969 appreciation amount for such property 668
3 is the lesser of (i) the excess of such fair market value 669
4 over the taxpayer's basis (for determining gain) for such 670
5 property on that date (determined under the Internal Revenue
6 Code as in effect on that date), or (ii) the total gain 671
7 realized and reportable for federal income tax purposes in 672
8 respect of the sale, exchange or other disposition of such 673
9 property.

10 (B) If the fair market value of property referred to in 675
11 paragraph (1) was not readily ascertainable on August 1, 676
12 1969, the pre-August 1, 1969 appreciation amount for such 677
13 property is that amount which bears the same ratio to the 678
14 total gain reported in respect of the property for federal 679
15 income tax purposes for the taxable year, as the number of
16 full calendar months in that part of the taxpayer's holding 680
17 period for the property ending July 31, 1969 bears to the 681
18 number of full calendar months in the taxpayer's 682
19 entire-holding period for the property.

20 (C) The Department shall prescribe such regulations as 684
21 may be necessary to carry out the purposes of this paragraph. 685

22 (g) Double deductions. Nothing in this Section shall 687
23 permit the same item to be deducted more than once. 688

24 (h) Legislative intention. Except as expressly provided 690
25 by this Section, there shall be no modifications or 691
26 limitations on the amounts of income, gain, loss or deduction 692
27 taken into account in determining gross income, adjusted 693
28 gross income or taxable income for federal income tax 694
29 purposes for the taxable year, or in the amount of such items
30 entering into the computation of base income and net income 695
31 under this Act for such taxable year, whether in respect of 696
32 property values as of August 1, 1969 or otherwise. 698

33 Section 2. This Act shall take effect upon becoming a 700
34 law and shall apply to all taxable years ending on or after 701
35 its effective date.

BILL 15

Background

The Joint Committee on Administrative Rules objected to a Secretary of State rule (92 Ill. Adm. Code 1010) which, commencing with the 1986 registration year, entitled the spouses, widows, and widowers of claimants eligible under Section 3-806.3 of the Illinois Vehicle Code (Ill. Rev. Stat. 1984 Supp., ch. 95½, par. 3-806.3) to a 50% reduction in vehicle registration fees. The Committee objected because the Secretary lacks any statutory authority to grant such a discount. Section 3-806.3 of the Code explicitly states that the reduced fee is available to any vehicle owner who is eligible to claim a grant. The Joint Committee developed this legislation which will authorize the Secretary of State to allow a vehicle registration discount for the spouses, widows, and widowers of qualified claimants for one year.

Summary

Amends Section 3-806.3 of the Illinois Vehicle Code (Ill. Rev. Stat. 1984 Supp., ch. 95½, par. 3-806.3, as amended by P.A. 84-832, effective September 23, 1985), to allow a vehicle registration discount for the spouses, widows, and widowers of claimants eligible under this section for one year. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 95 1/2, par. 3-806.3)

Amends The Illinois Vehicle Code. Permits a 50% reduction in registration fees for certain vehicles for the spouses, widows and widowers of persons eligible to claim a grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act. Provides that no more than one reduced registration fee shall be allowed during any 12 month period based on the primary eligibility of any individual, whether such reduced registration fee is allowed to the individual or to the spouse, widow or widower of such individual. Effective immediately.

LRB8407575Sftc

*Fiscal Note Act
may be applicable*

A BILL FOR

1 AN ACT to amend Section 3-806.3 of "The Illinois Vehicle 63
2 Code", approved September 29, 1969, as amended. 65

3 Be it enacted by the People of the State of Illinois, 69
4 represented in the General Assembly:

5 Section 1. Section 3-806.3 of "The Illinois Vehicle 71
6 Code", approved September 29, 1969, as amended, is amended to 72
7 read as follows:

 (Ch. 95 1/2, par. 3-806.3) 74

8 Sec. 3-806.3. Commencing with the 1986 registration 76
9 year, the registration fee paid by any vehicle owner who is 77
10 eligible to claim a grant under the "Senior Citizens and 78
11 Disabled Persons Property Tax Relief and Pharmaceutical 79
12 Assistance Act" or who is the spouse of a person so eligible
13 shall be reduced by 50% for passenger cars displaying 81
14 standard multi-year registration plates issued under Section 82
15 3-414.1, motor vehicles displaying special registration 83
16 plates issued under Section 3-616, motor vehicles registered 84
17 at 8,000 pounds or less under Section 3-815(a) and 85
18 recreational vehicles registered at 8,000 pounds or less
19 under Section 3-815(b). Widows and widowers of claimants 86
20 shall also be entitled to the reduced registration rate for 87
21 the registration year in which the claimant was eligible.

22 ~~No vehicle-owner-shall-be-entitled-to~~ more than one 90
23 reduced registration fee under this Section shall be allowed 91
24 during any 12 month period based on the primary eligibility 92
25 of any individual, whether such reduced registration fee is 93
26 allowed to the individual or to the spouse, widow or widower 94
27 of such individual. The reduction shall not apply to the fee 96
28 paid in addition to the registration fee for motor vehicles 97
29 displaying personalized license plates under Section 3-806.1.

30 Section 2. This Act takes effect upon its becoming a law. 100

Background

In 1984, the Joint Committee on Administrative Rules issued a number of objections to the Department of Labor's proposed rules entitled "Toxic Substances Disclosure to Employees." Specifically, the Joint Committee objected to the Department's lack of statutory authority to: (1) exempt employers from the labeling requirements of Section 8 of the Toxic Substances Disclosure to Employees Act (Act) if the employer has made a "good faith effort" to obtain a label; (2) and (3) exempt small businesses and certain products from the labeling requirements of Section 8 of the Act; (4) exempt sealed packages containing toxic materials from the labeling provisions of Section 8 of the Act; (5) place substances included in Material Safety Data Sheets in a "Proposed Revised Toxic Substance Disclosure to Employees List" and not on the "Toxic Substances List" as required by Section 5 of the Act; (6) establish a Technical Advisory Panel to recommend additions to or deletions from the Toxic Substance List; (7) establish the hearing procedures contained in its rules.

The remaining objection was issued to the Department's rules because they failed to provide standards for the exercise of agency discretion as required by Section 4.02 of the Illinois Administrative Procedure Act in determining what common names will be accepted by the Department in identifying toxic substances for labeling purposes. In each instance, the Joint Committee recommended that legislation be initiated to provide the Department of Labor with the authority it needs to carry out the Toxic Substance Disclosure to Employees Act. In addition, in 1985, the Joint Committee issued a second recommendation regarding the Department's hearing procedures.

The Joint Committee has also recommended that legislation be drafted to authorize the Department to implement the Act as its rules provide.

Summary

Amends Sections 4, 5, and 8 of the Toxic Substances Disclosure to Employees Act (Ill. Rev. Stat. 1983, ch. 48, par. 1401 et seq., as amended) to provide the Department of Labor with the statutory authority necessary to: (1) exempt employers from certain labeling requirements of the "Toxic Substances Disclosure to Employees Act"; (2) provide hearing procedures for additions to and deletions from the Toxic Substances List; and (3) establish a Technical Advisory Panel for the purpose of recommending additions to or deletions from the Toxic Substances List. Effective immediately.

Legislative Drafting Request

Summary

Amend Sections 4, 5, and 8 of the Toxic Substances Disclosure to Employees Act (Ill. Rev. Stat. 1983, ch. 48, par. 1401 et seq., as amended) to provide the Department of Labor with the statutory authority necessary to: (1) exempt employers from certain labeling requirements of the "Toxic Substances Disclosure to Employees Act"; (2) provide hearing procedures for additions to and deletions from the Toxic Substances List; and (3) establish a Technical Advisory Panel for the purpose of recommending additions to or deletions from the Toxic Substances List.

Drafting Notes

Section 1. Amend Sections 4, 5 and 8 as follows:

(ch. 48, pars. 1404, 1405 and 1408)

Section 4. (a) The Director shall establish a list of toxic substances promulgated by regulation after holding a public hearing. The Director shall hold at least one such preliminary hearing and one final hearing per year prior to amending the Toxic Substances List.

(b) Any employer, employee, or employee representative may petition the Director to add any substance to the list of toxic substances or to delete a toxic substance from the list. The Director shall promulgate rules to establish an orderly procedure for presenting such a petition.

(c) The Director may establish a Technical Advisory Panel for the purpose of recommending additions to, and deletions from, the Toxic Substance List. The panel shall be comprised of representatives from manufacturing and labor who shall serve without compensation but will be reimbursed for their expenses.

(d) ~~(e)~~ The Director shall publish notice in the Illinois Register of any preliminary hearing held under this Section at least 30 days prior to such hearing. The Director shall publish notice of ~~any such~~ the final hearing in the Illinois Register at least 90 days before the hearing date.

(e) ~~(d)~~ At the hearing ~~hearings~~, the Director shall hear testimony and take documentary evidence concerning the addition of substances to the list. Any person may testify and present evidence. The Director shall take all testimony and evidence into consideration. If the Director determines that a substance poses a significant risk to human health when used in the workplace he shall add the substance to the list of toxic substances. Otherwise, the substance shall not be added. At the same hearing ~~hearings~~, the Director shall hear testimony and take evidence concerning the deletion of substances from the list. If the Director determines that a substance does not pose any significant risk to human health when used in the workplace, he shall delete the substance from ~~from~~ the list of toxic substances.

(f) ~~(e)~~ The Director shall, within 30 days of the effective date of this Act, ~~published~~ publish in the Illinois Register, pursuant to Section 5.01 of the Illinois Administrative Procedure Act, the names of all substances, compounds or mixtures which are defined as "toxic substances" under Section 3~~(t)~~(m)(i), 3~~(t)~~(m)(ii) and 3~~(t)~~(m)(iii). Whenever the Director adds or deletes substances from the list of toxic substances promulgated by regulation, he shall, within 30 days of making such additions or deletions, ~~published~~ publish in the Illinois Register, pursuant to Section 5.01 of the Illinois Administrative Procedure Act, the names of all substances defined as toxic substances under Section 3~~(t)~~(m)(i), 3~~(t)~~(m)(ii), 3~~(t)~~(m)(iii) and 3~~(t)~~(m)(iv). The Director shall mail a copy of the current list of toxic substances to any employer, employee or employee representative upon request. The Director may charge a reasonable fee to cover the costs of reproduction and mailing of the list.

(g) ~~(f)~~ The provisions of this Act shall become effective with respect to any substance, compound or mixture defined as a toxic substance under Section 3~~(t)~~(m)(i), 3~~(t)~~(m)(ii), 3~~(t)~~(m)(iii) and 3~~(t)~~(m)(iv), upon filing unless a later effective date is specified in the rule, pursuant to Section 4(e).

Section 5. (a) Every employer shall submit to the Director, within 6 months of the effective date of this Act and annually thereafter, an alphabetized list of substances, compounds or mixtures for which the employer has acquired material safety data sheets. All substances listed on the material safety data sheets submitted to the Director which are not listed on the Toxic Substances List shall be placed on a Proposed Revised Toxic Substances List and subject to the hearing procedures established by the Director for such additions, pursuant to Section 4 of this Act.

(b) Every manufacturer, importer or supplier of substances, compounds or mixtures shall submit to the Director, within 6 months of the effective date of this Act and annually thereafter, every Material Safety Data Sheet that it has compiled or acquired, along with an alphabetized list of such material safety data sheets. All substances listed on such material safety data sheets submitted to the Director which are not listed on the Toxic Substances List shall be placed on the Proposed Revised Toxic Substances List and subject to the hearing procedures established by the Director for such additions, pursuant to Section 4 of this Act.

(c) The Director shall publish a list of all substances described in Material Safety Data Sheets submitted by an employer, manufacturer, importer or supplier under this Section. The Director shall publish this list, hereinafter referred to as an "MSDS list", in the Illinois Register at least 90 days before a the final hearing held pursuant to Section 4 above. The publication shall state that any substance identified in an MSDS list will be automatically added to the ~~list of toxic substances~~ Proposed Revised Toxic Substances List promulgated by the Director under Section 4.

Section 8. (a) Except as otherwise provided by this Section, the employer shall label with the chemical name and appropriate hazard warnings each container of a toxic substance in the workplace. An employer shall be deemed to have made a good faith effort to label each container of a toxic

substance if the manufacturer, importer, or supplier of the substance fails to provide the employer with labels within 30 days of a request, in accordance with Section 11(a) of this Act and if the employer has filed a complaint with the Department in accordance with Section 17(a) of this Act. The employer is not required to label any container of ten gallons or less in volume into which a toxic substance or mixture is transferred by the employee ~~form~~ from labelled containers and which is intended only for the immediate use of the employee who performs the transfer. No employer shall be required to label any container which is sealed when it arrives at the workplace if it remains sealed until it is sold or transferred.

(b) The employer may post signs, placards or operating instructions to convey the required information as specified in Section 8(a) rather than affixing labels to each fixed container. For purposes of this paragraph, "fixed container" shall mean a pipe, piping system, reaction vessel or storage tank. All containers which are not fixed containers must individually labelled. The employer shall provide at least one sign, placard or set of operating instructions readily accessible to each employee in the employee's work area.

(c) The employer shall ensure that each label, sign, placard or set of operating instructions required by this Section is prominently affixed and displayed in such a manner that employees can easily identify the toxic substances present.

(d) The employer need not affix new labels if existing labels already convey the necessary information required by this Section.

(e) This Section shall not apply to containers into which products registered pursuant to the Federal Insecticide, Fungicide and Rodenticide Act, as amended, are transferred to form use-dilutions at a mixing/loading site for use within a 12 hour period. All labeling information required for such products by the Federal Insecticide, Fungicide and Rodenticide Act must be posted in a prominent location at the mixing/loading site.

(f) "Small businesses" as defined by Section 3.10 of the Illinois Administrative Procedure Act shall be exempt from the labeling requirements of this Act if the employer has requested from the manufacturer, importer or supplier by certified mail a label for a substance purchased after June 30, 1984, if a copy of the request is submitted to the Illinois Department of Labor and the label is not received.

(g) The Department may exempt, by rule, certain substances from the requirements of this Section.

(h) (f) This Section shall become effective with respect to any toxic substance upon filing, unless a later effective date is specified in the rule, pursuant to Section 4(e) of this Act.

Section 2. This Act shall take effect upon becoming law.

Background

This proposal has been drafted in response to a Joint Committee on Administrative Rules recommendation that a clarification of the relationship between Section 9.1(c) of the Environmental Protection Act and the Illinois Administrative Procedure Act is needed.

Pursuant to Section 9.1(c) of the Environmental Protection Act, the Pollution Control Board is required to adopt rules which are identical in substance to federal regulations promulgated by the United States Environmental Protection Agency, implementing Sections 111 and 112 of the United States Clean Air Act. According to Section 9.1(c), these rules must be adopted by the Pollution Control Board at the "next scheduled Board meeting following the promulgation of the corresponding federal regulations and filed with the Secretary of State in accordance with the Illinois Administrative Procedure Act therein 60 days thereafter."

It has been the practice of the Board to comply with this Section by incorporating by reference all amendments and corrections that the United States Environmental Protection Agency promulgates in regard to the rules which implement the Clean Air Act. The Board submitted these incorporations by reference to the Secretary of State through the peremptory rulemaking procedure of Section 5.03 of the Illinois Administrative Procedure Act. However, these rulemakings do not strictly comply with the literal requirements of Section 5.03 of the Act, and by virtue of the 60 day requirement, are precluded from complying with Section 5.02 of the Illinois Administrative Procedure Act (Emergency rulemaking). Therefore, the Joint Committee, in consultation with the Pollution Control Board, agreed that the Environmental Protection Act should be amended to allow the Board to adopt rules identical to federal regulations under Section 111 and 112 of the federal Clean Air Act. This legislative proposal also deletes the provisions relating to rules regarding pollution sources in non-attainment areas.

Summary

Amends Section 9.1, 39 and 40 of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111½ par. 1009.1, 1039, and 1040) to delete provisions requiring the Pollution Control Board to adopt rules identical to federal regulations under Sections 111 and 112 of the federal Clean Air Act and to delete provisions relating to rules regarding pollution sources in non-attainment areas. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____, BY

SYNOPSIS: (Ch. 111 1/2, pars. 1009.1, 1039 and 1040)

Amends the Environmental Protection Act to delete provisions requiring the Pollution Control Board to adopt rules identical to federal regulations under Sections 111 and 112 of the federal Clean Air Act; deletes provisions relating to rules regarding pollution sources in nonattainment areas. Effective immediately.

LRB8407896EGks

A BILL FOR

1 AN ACT to amend Sections 9.1, 39 and 40 of the 52
2 "Environmental Protection Act", approved June 29, 1970, as 53
3 amended. 54

4 Be it enacted by the People of the State of Illinois, 58
5 represented in the General Assembly:

6 Section 1. Sections 9.1, 39 and 40 of the "Environmental 61
7 Protection Act", approved June 29, 1970, as amended, are 62
8 amended to read as follows:

 (Ch. 111 1/2, par. 1009.1) 64

9 Sec. 9.1. (a) The General Assembly finds that the 66
10 federal Clean Air Act, as amended, and regulations adopted 67
11 pursuant thereto establish complex and detailed provisions 68
12 for State-federal cooperation in the field of air pollution 69
13 control, provide for a Prevention of Significant
14 Deterioration program to regulate the issuance of 70
15 preconstruction permits to insure that economic growth will 71
16 occur in a manner consistent with the preservation of 72
17 existing clean air resources, and also provide for plan
18 requirements for nonattainment areas to regulate the 73
19 construction, modification and operation of sources of air 74
20 pollution to insure that economic growth will occur in a 75
21 manner consistent with the goal of achieving the national
22 ambient air quality standards, and that the General Assembly 76
23 cannot conveniently or advantageously set forth in this Act 77
24 all the requirements of such federal Act or all regulations 78
25 which may be established thereunder.

26 It is the purpose of this Section to avoid the existence 80
27 of duplicative, overlapping or conflicting State and federal 81
28 regulatory systems. 82

29 (b) The provisions of Section 111 of the federal Clean 84
30 Air Act (42 USC 7411) relating to standards of performance 85
31 for new stationary sources, and Section 112 of the federal 86
32 Clean Air Act (42 USC 7412) relating to the establishment of 87

1 national emission standards for hazardous air pollutants are 88
2 applicable in this State and are enforceable under this Act. 89
3 Any such enforcement shall be stayed consistent with any stay 90
4 granted in any federal judicial action to review such 91
5 standards. Enforcement shall be consistent with the results
6 of any such judicial review. 92
7 ~~(c)--The Board shall adopt rules which are in substance 94~~
8 ~~identical with federal regulations promulgated by the 95~~
9 ~~Administrator of the United States Environmental Protection 96~~
10 ~~Agency to implement Sections 111 and 112 of the Federal Clean 97~~
11 ~~Air Act. Each such Board rule shall be adopted by Board 98~~
12 ~~resolution at the next scheduled Board meeting following 99~~
13 ~~promulgation of the corresponding federal regulation and~~
14 ~~filed with the Secretary of State in accordance with The 100~~
15 ~~Illinois Administrative Procedure Act within 60 days 101~~
16 ~~thereafter. The provisions and requirements of Title VII of 102~~
17 ~~this Act shall not apply to rules adopted under Subsections 103~~
18 ~~(b) and (c) of this Section.~~
19 (c) (d) The Board may shall adopt regulations 106
20 establishing permit programs meeting the requirements of 107
21 Sections 165 and 173 of the Clean Air Act (42 USC 7475 and 42 108
22 USC 7503) as amended. The Agency may shall adopt procedures
23 for the administration of such programs. On or before October 110
24 27, 1982, the Board shall adopt the regulations establishing a 111
25 permit program meeting the requirements of Section 173 (42 112
26 USC 7503).
27 ~~(e)--From the date of their adoption until October 27 114~~
28 ~~1982, or the effective date of the Board regulations 115~~
29 ~~implementing Section 173 of the Clean Air Act (42 USC 7503), 116~~
30 ~~whichever is earlier, or if the Board's regulations are 117~~
31 ~~stayed by a Court of competent jurisdiction, then until the 118~~
32 ~~termination of the stay, the "Rules for Issuance of Permits 119~~
33 ~~to New or Modified Air Pollution Sources Affecting 120~~
34 ~~Nonattainment Areas" promulgated by the Agency and as amended~~
35 ~~from time to time, shall be in effect, provided that the~~

1 Agency may not impose any condition or requirement more 121
2 stringent than required by the Clean Air Act, as amended, 122
3 this Act, or the regulations of the Board. The burden of 123
4 establishing that any condition or requirement imposed by the 124
5 Agency in or for the issuance of a permit is more stringent 125
6 than required by the Clean Air Act, as amended, shall be upon 125
7 the permit applicant.
8 (d) ~~(f)~~ No person shall: 127
9 (1) Violate any provisions of Sections 111, 112, 165 or 129
10 173 of the Clean Air Act or federal regulations adopted 130
11 pursuant thereto; or
12 (2) Construct, install, modify or operate any equipment, 132
13 building, facility, source or installation which is subject 133
14 to regulation under Sections 111, 112, 165 or 173 of the 135
15 Clean Air Act except in compliance with the requirements of 136
16 such Sections and federal regulations adopted pursuant 137
17 thereto, and no such action shall be undertaken without a 138
18 permit granted by the Agency or in violation of any 139
19 conditions imposed by such permit. Any denial of such a 139
20 permit or any conditions imposed in such a permit shall be 140
21 reviewable by the Board in accordance with Section 40 of this 142
22 Act.
23 (Ch. 111 1/2, par. 1039) 144
24 Sec. 39. (a) When the Board has by regulation required a 146
25 permit for the construction, installation, or operation of 147
26 any type of facility, equipment, vehicle, vessel, or 148
27 aircraft, the applicant shall apply to the Agency for such 149
28 permit and it shall be the duty of the Agency to issue such a 150
29 permit upon proof by the applicant that the facility, 151
30 equipment, vehicle, vessel, or aircraft will not cause a 152
31 violation of this Act or of regulations hereunder. The 153
32 Agency shall adopt such procedures as are necessary to carry 154
33 out its duties under this Section. In granting permits the 155
34 Agency may impose such conditions as may be necessary to 156
35 accomplish the purposes of this Act, and as are not

1 inconsistent with the regulations promulgated by the Board 156
2 hereunder. Except as otherwise provided in this Act, a bond 158
3 or other security shall not be required as a condition for
4 the issuance of a permit. If the Agency denies any permit 159
5 under this Section, the Agency shall transmit to the 160
6 applicant within the time limitations of this Section 161
7 specific, detailed statements as to the reasons the permit 162
8 application was denied. Such statements shall include, but 163
9 not be limited to the following:
10 (i) the Sections of this Act which may be violated if 165
11 the permit were granted; 166
12 (ii) the provision of the regulations, promulgated under 168
13 this Act, which may be violated if the permit were granted; 169
14 (iii) the specific type of information, if any, which 171
15 the Agency deems the applicant did not provide the Agency; 172
16 and
17 (iv) a statement of specific reasons why the Act and the 174
18 regulations might not be met if the permit were granted. 175
19 If there is no final action by the Agency within 90 days 177
20 after the filing of the application for permit, the applicant 178
21 may deem the permit issued; except that this time period 179
22 shall be extended to 180 days when (1) notice and opportunity 180
23 for public hearing are required by State or federal law or 181
24 regulation, or (2) the application which was filed is for any 182
25 permit to develop a landfill subject to issuance pursuant to
26 this subsection.
27 (b) The Agency may issue NPDES permits exclusively under 184
28 this subsection for the discharge of contaminants from point 185
29 sources into navigable waters, all as defined in the Federal 186
30 Water Pollution Control Act Amendments of 1972 (P. L. 187
31 92-500), within the jurisdiction of the State, or into any 188
32 well.
33 All NPDES permits shall contain those terms and 190
34 conditions, including but not limited to schedules of 191
35 compliance, which may be required to accomplish the purposes 192

1 and provisions of this Act. 192

2 The Agency may issue general NPDES permits for discharges 194

3 from categories of point sources which are subject to the 195

4 same permit limitations and conditions. Such general permits 196

5 may be issued without individual applications and shall 197

6 conform to regulations promulgated under Section 402 of the 198

7 Clean Water Act (P.L. 95-217).

8 The Agency may include, among such conditions, effluent 200

9 limitations and other requirements established under this 201

10 Act, Board regulations, the Federal Water Pollution Control 202

11 Act Amendments of 1972 and regulations pursuant thereto, and 203

12 schedules for achieving compliance therewith at the earliest 204

13 reasonable date.

14 The Agency shall adopt filing requirements and procedures 206

15 which are necessary and appropriate for the issuance of NPDES 207

16 permits, and which are consistent with the Act or regulations 208

17 adopted by the Board, and with the Federal Water Pollution 209

18 Control Act Amendments of 1972 (P. L. 92-500) and regulations 210

19 pursuant thereto.

20 The Agency, subject to any conditions which may be 212

21 prescribed by Board regulations, may issue NPDES permits to 213

22 allow discharges beyond deadlines established by this Act or 214

23 by regulations of the Board without the requirement of a 215

24 variance, subject to the Federal Water Pollution Control Act 216

25 Amendments of 1972 (P. L. 92-500) and regulations pursuant 217

26 thereto.

27 (c) Except for those facilities owned or operated by 219

28 sanitary districts organized under "An Act to create sanitary 220

29 districts and to remove obstructions in the Des Plaines and 221

30 Illinois rivers", approved May 29, 1889, as now or hereafter 222

31 amended, no permit for the development or construction of a 223

32 new regional pollution control facility may be granted by the 224

33 Agency unless the applicant submits proof to the Agency that 225

34 the location of said facility has been approved by the County 226

35 Board of the county if in an unincorporated area, or the

1 governing body of the municipality when in an incorporated 227
2 area, in which the facility is to be located in accordance
3 with Section 39.2 of this Act. 228

4 Except for those facilities owned or operated by sanitary 230
5 districts organized under "An Act to create sanitary 231
6 districts and to remove obstructions in the Des Plaines and 232
7 Illinois rivers", approved May 29, 1889, as now or hereafter 233
8 amended, and except for new regional pollution control 234
9 facilities governed by Section 39.2, and except for fossil
10 fuel mining facilities, the granting of a permit under this 235
11 Act shall not relieve the applicant from meeting and securing 236
12 all necessary zoning approvals from the unit of government 237
13 having zoning jurisdiction over the proposed facility. 238

14 Before beginning construction on any new sewage treatment 240
15 plant or sludge drying site to be owned or operated by a 242
16 sanitary district organized under "An Act to create sanitary
17 districts and to remove obstructions in the Des Plaines and 243
18 Illinois rivers", approved May 29, 1889, as amended, for 244
19 which a new permit (rather than the renewal or amendment of 245
20 an existing permit) is required, such sanitary district shall 246
21 hold a public hearing within the municipality within which 247
22 the proposed facility is to be located, or within the nearest
23 community if the proposed facility is to be located within an 248
24 unincorporated area, at which information concerning the 249
25 proposed facility shall be made available to the public, and 250
26 members of the public shall be given the opportunity to 251
27 express their views concerning the proposed facility.

28 (d) The Agency may issue RCRA permits exclusively under 253
29 this subsection to persons owning or operating a facility for 254
30 the treatment, storage, or disposal of hazardous waste as 255
31 defined under this Act.

32 All RCRA permits shall contain those terms and 257
33 conditions, including but not limited to schedules of 258
34 compliance, which may be required to accomplish the purposes 259
35 and provisions of this Act. The Agency may include among such

1 conditions standards and other requirements established under 260
2 this Act, Board regulations, the Resource Conservation and 261
3 Recovery Act of 1976 (P.L. 94-580), as amended, and 262
4 regulations pursuant thereto, and may include schedules for 263
5 achieving compliance therewith as soon as possible. The 264
6 Agency shall require that a performance bond or other
7 security be provided as a condition for the issuance of a 265
8 RCRA permit.

9 The Agency shall adopt filing requirements and procedures 267
10 which are necessary and appropriate for the issuance of RCRA 268
11 permits, and which are consistent with the Act or regulations 269
12 adopted by the Board, and with the Resource Conservation and 270
13 Recovery Act of 1976 (P.L. 94-580), as amended, and 271
14 regulations pursuant thereto.

15 The applicant shall make available to the public for 273
16 inspection all documents submitted by the applicant to the 274
17 Agency in furtherance of an application, with the exception 275
18 of trade secrets, at the office of the county board or 276
19 governing body of the municipality. Such documents may be 277
20 copied upon payment of the actual cost of reproduction during 278
21 regular business hours of the local office. The Agency shall 279
22 issue a written statement concurrent with its grant or denial 280
23 of the permit explaining the basis for its decision.

24 (e) The Agency may issue UIC permits exclusively under 282
25 this subsection to persons owning or operating a facility for 283
26 the underground injection of contaminants as defined under 284
27 this Act.

28 All UIC permits shall contain those terms and conditions, 286
29 including but not limited to schedules of compliance, which 287
30 may be required to accomplish the purposes and provisions of 288
31 this Act. The Agency may include among such conditions 289
32 standards and other requirements established under this Act,
33 Board regulations, the Safe Drinking Water Act (P.L. 93-523), 290
34 as amended, and regulations pursuant thereto, and may include 291
35 schedules for achieving compliance therewith. The Agency 292

1 shall require that a performance bond or other security be 293
2 provided as a condition for the issuance of a UIC permit.
3 The Agency shall adopt filing requirements and procedures 295
4 which are necessary and appropriate for the issuance of UIC 296
5 permits, and which are consistent with the Act or regulations 297
6 adopted by the Board, and with the Safe Drinking Water Act 298
7 (P.L. 93-523), as amended, and regulations pursuant thereto.
8 The applicant shall make available to the public for 300
9 inspection, all documents submitted by the applicant to the 301
10 Agency in furtherance of an application, with the exception 302
11 of trade secrets, at the office of the county board or 303
12 governing body of the municipality. Such documents may be 304
13 copied upon payment of the actual cost of reproduction during 305
14 regular business hours of the local office. The Agency shall 306
15 issue a written statement concurrent with its grant or denial 307
16 of the permit explaining the basis for its decision.
17 (f) In making any determination under regulations 309
18 established pursuant to subsection (c) ~~(d)-or-(e)~~ of Section 310
19 9.1 of this Act:
20 (1) The Agency shall have authority to make the 312
21 determination of any question required to be determined by 313
22 the Clean Air Act, this Act, or the regulations of the Board, 314
23 including the determination of the Lowest Achievable Emission 315
24 Rate or Best Available Control Technology, consistent with 316
25 the Board's regulations.
26 (2) The Agency shall, after conferring with the 318
27 applicant, give written notice to the applicant of its 319
28 proposed decision on the application including the terms and 320
29 conditions of the permit to be issued and the facts, conduct
30 or other basis upon which the Agency will rely to support its 321
31 proposed action.
32 (3) Following such notice, the Agency shall give the 323
33 applicant an opportunity for a hearing in accordance with the 324
34 provisions of Sections 10 through 15 of "The Illinois 325
35 Administrative Procedure Act", approved September 22, 1975, 326

1 as amended. 326

2 (g) The Agency shall include as conditions upon all 328

3 permits issued for hazardous waste disposal sites such 329

4 restrictions upon the future use of such sites as are 330

5 reasonably necessary to protect public health and the 331

6 environment, including permanent prohibition of the use of

7 such sites for purposes which may create an unreasonable risk 332

8 of injury to human health or to the environment. After 333

9 administrative and judicial challenges to such restrictions 334

10 have been exhausted, the Agency shall file such restrictions 335

11 of record in the Office of the Recorder of the county in

12 which the hazardous waste disposal site is located. 336

13 (h) Commencing January 1, 1987, a hazardous waste stream 338

14 may not be deposited in a permitted hazardous waste site 339

15 unless specific authorization is obtained from the Agency by 340

16 the generator and the disposal site owner and operator for 341

17 the deposit of that specific hazardous waste stream. The 342

18 Agency may grant specific authorization for disposal of

19 hazardous waste streams only after the generator has 343

20 reasonably demonstrated that, considering technological 344

21 feasibility and economic reasonableness, the hazardous waste

22 cannot be reasonably recycled for reuse, nor incinerated or 345

23 chemically, physically or biologically treated so as to 346

24 neutralize the hazardous waste and render it nonhazardous. 347

25 In granting authorization under this Section, the Agency may 348

26 impose such conditions as may be necessary to accomplish the 349

27 purposes of the Act and are consistent with this Act and

28 regulations promulgated by the Board hereunder. If the 350

29 Agency refuses to grant authorization under this Section, the 351

30 applicant may appeal as if the Agency refused to grant a 352

31 permit, pursuant to the provisions of subsection (a) of 353

32 Section 40 of this Act.

33 (i) Before issuing any RCRA permit or any permit for the 355

34 conduct of any waste-transportation or waste-disposal 356

35 operation, the Agency shall conduct an evaluation of the 357

1 prospective operator's prior experience in waste management 358
2 operations. The Agency may deny such a permit if the 359
3 prospective operator or any employee or officer of the
4 prospective operator has a history of: 360
5 (1) repeated violations of federal, State, or local 362
6 laws, regulations, standards, or ordinances in the operation 363
7 of refuse disposal facilities or sites; or
8 (2) conviction in this or another State of any crime 365
9 which is a felony under the laws of this State, or conviction 366
10 of a felony in a federal court; or
11 (3) proof of gross carelessness or incompetence in 368
12 handling, storing, processing, transporting or disposing of 369
13 any hazardous waste.
14 (j) The issuance under this Act of a permit to engage in 371
15 the surface mining of any resources other than fossil fuels 372
16 shall not relieve the permittee from its duty to comply with 373
17 any applicable local law regulating the commencement, 374
18 location or operation of surface mining facilities.
19 (k) A development permit issued under subsection (a) of 376
20 Section 39 for any facility or site which is required to have 377
21 a permit under subsection (d) of Section 21 shall expire at 378
22 the end of 2 calendar years from the date upon which it was 379
23 issued, unless within that period the applicant has taken
24 action to develop the facility or the site. In the event that 380
25 review of the conditions of the development permit is sought 381
26 pursuant to Sections 40 or 41, or permittee is prevented from 382
27 commencing development of the facility or site by any other 383
28 litigation beyond the permittee's control, such two-year 384
29 period shall be deemed to begin on the date upon which such
30 review process or litigation is concluded. 386
31 (Ch. 111 1/2, par. 1040) 388
32 Sec. 40. (a)(1) If the Agency refuses to grant or grants 390
33 with conditions a permit under Section 39 of this Act, the 392
34 applicant may, within 35 days, petition for a hearing before 393
the Board to contest the decision of the Agency. The Board 394

1 shall give 21 day notice to any person in the county where is 394
2 located the facility in issue who has requested notice of 395
3 enforcement proceedings and to each member of the General 396
4 Assembly in whose legislative district that installation or 397
5 property is located; and shall publish that 21 day notice in 398
6 a newspaper of general circulation in that county. The Agency 399
7 shall appear as respondent in such hearing. At such hearing 400
8 the rules prescribed in Sections 32 and 33(a) of this Act
9 shall apply, and the burden of proof shall be on the 401
10 petitioner.

11 (2) Except as provided in paragraph (a)(3), if there is 403
12 no final action by the Board within 90 days, petitioner may 404
13 deem the permit issued under this Act, provided, however, 405
14 that that period of 90 days shall not run for any period of 406
15 time, not to exceed 30 days, during which the Board is 407
16 without sufficient membership to constitute the quorum 408
17 required by subsection (a) of Section 5 of this Act, and
18 provided further that such 90 day period shall not be stayed 409
19 for lack of quorum beyond 30 days regardless of whether the 410
20 lack of quorum exists at the beginning of such 90 day period 411
21 or occurs during the running of such 90 day period. 412

22 (3) Paragraph (a)(2) shall not apply to any permit which 414
23 is subject to subsection (b), (d) or (e) of Section 39. If 416
24 there is no final action by the Board within 120 days, the
25 petitioner shall be entitled to an Appellate Court order 417
26 pursuant to Section 41(d) of this Act.

27 (b) If the Agency grants a RCRA permit for a hazardous 419
28 waste disposal site, a third party, other than the permit 420
29 applicant or Agency, may petition the Board within 35 days 421
30 for a hearing to contest the issuance of the permit. Unless 422
31 the Board determines that such petition is duplicitous or 423
32 frivolous, or that the petitioner is so located as to not be 424
33 affected by the permitted facility, the Board shall hear the
34 petition in accordance with the terms of subsection (a) of 425
35 this Section and its procedural rules governing denial 426

1 appeals, such hearing to be based exclusively on the record 427
2 before the Agency. The burden of proof shall be on the 428
3 petitioner. The Agency and the permit applicant shall be 429
4 named co-respondents.
5 The provisions of this subsection do not apply to the 431
6 granting of permits issued for the disposal or utilization of 432
7 sludge from publicly-owned sewage works. 433
8 (c) Any party to an Agency proceeding conducted pursuant 435
9 to Section 39.3 of this Act may petition as of right to the 436
10 Board for review of the Agency's decision within 35 days from 437
11 the date of issuance of the Agency's decision, provided that 438
12 such appeal is not duplicitous or frivolous. The decision of 439
13 the Board shall be based exclusively on the record compiled
14 in the Agency proceeding. In other respects the Board's 440
15 review shall be conducted in accordance with subsection (a) 441
16 of this Section and the Board's procedural rules governing 442
17 permit denial appeals.
18 (d) In reviewing the denial or any condition of a permit 444
19 issued by the Agency pursuant to rules and regulations 445
20 adopted under subsection (c) ~~(d) or (e)~~ of Section 9.1 of 446
21 this Act, the decision of the Board shall be based 447
22 exclusively on the record before the Agency including the 448
23 record of the hearing, if any, held pursuant to paragraph 449
24 (f)(3) of Section 39 unless the parties agree to supplement 450
25 the record. The Board shall, if it finds the Agency is in 451
26 error, make a final determination as to the substantive
27 limitations of the permit including a final determination of 452
28 Lowest Achievable Emission Rate or Best Available Control 453
29 Technology. 454
30 Section 2. This Act shall take effect upon becoming law. 456

BILL 18

Background

After reviewing the Pollution Control Board's rules entitled "Solid Waste" (35 Ill. Adm. Code 807), the Joint Committee on Administrative Rules discovered that the Board lacked the statutory authority to require a waste disposal operator to post security to cover the cost of closure and post-closure care of waste treatment and waste storage operations. The Board's rules require a waste operator to prepare closure and post-closure care plans for the entire site on which their disposal activities occurred. However, Section 21.1(b) of the Environmental Protection Act states that the amount of the performance bond or other security for the purpose of insuring closure shall be directly related to the design and volume of a waste disposal facility.

As defined in the Board's rules, a site may include one or more units that are used for the storage, treatment, or disposal of waste. In addition, the definition of a site in Section 3(dd) of the Act indicates that a facility is a component of a site. Therefore, the Board's attempt to equate a facility and a site, so that amounts of bonds for closure of waste disposal facilities include waste treatment and storage facilities which happen to be located at a site with a disposal facility, is contrary to specific statutory provisions. The Joint Committee recommended that legislation be developed to clarify the Board's policy with respect to the posting of security for the cost of closure and post-closure care of waste treatment and waste storage operations.

Summary

Amends Section 21.1(a) of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111½, par. 1021.1(a)) to clarify the Pollution Control Board's policy to require that the closure performance bond be directly related to the design and volume of the entire waste disposal site, rather than a particular facility at the site. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 111 1/2, par. 1021.1)

Amends the Environmental Protection Act to require that the closure performance bond be directly related to the design and volume of the entire waste disposal site, rather than a particular facility at the site. Effective immediately.

LRB8407895EGks

A BILL FOR

1 AN ACT to amend Section 21.1 of the "Environmental 51
2 Protection Act", approved June 29, 1970, as amended. 53

3 Be it enacted by the People of the State of Illinois, 57
4 represented in the General Assembly:

5 Section 1. Section 21.1 of the "Environmental Protection 60
6 Act", approved June 29, 1970, as amended, is amended to read 61
7 as follows:

 (Ch. 111 1/2, par. 1021.1) 63

8 Sec. 21.1. (a) No person other than the State of 65
9 Illinois, its agencies and institutions, or a unit of local 66
10 government shall conduct any waste disposal operation on or 68
11 after March 1, 1985, which requires a permit under subsection
12 (d) of Section 21 of this Act, unless such person has posted 69
13 with the Agency a performance bond or other security for the 70
14 purpose of insuring closure of the site and post-closure care 71
15 in accordance with this Act and regulations adopted 72
16 thereunder.

17 (b) On or before January 1, 1985, the Board shall adopt 74
18 regulations to promote the purposes of this Section. Without 75
19 limiting the generality of this authority, such regulations 76
20 may, among other things, prescribe the type and amount of the 77
21 performance bonds or other securities required under 78
22 subsection (a) of this Section, and the conditions under
23 which the State is entitled to collect monies from such 79
24 performance bonds or other securities. The bond amount shall 80
25 be directly related to the design and volume of the site 81
26 ~~waste-disposal-facility~~.

27 (c) There is hereby created within the State Treasury a 83
28 special fund to be known as the "Landfill Closure and 84
29 Post-Closure Fund". Any monies forfeited to the State of 85
30 Illinois from any performance bond or other security required
31 under this Section shall be placed in the "Landfill Closure 86
32 and Post-Closure Fund" and shall, upon approval by the 87

1	Governor and the Director, be used by and under the direction	88
2	of the Agency for the purposes for which such performance	89
3	bond or other security was issued.	90
4	(d) The Agency is authorized to enter into such	92
5	contracts and agreements as it may deem necessary to carry	93
6	out the purposes of this Section. Neither the State, nor the	94
7	Director, nor any State employee shall be liable for any	95
8	damages or injuries arising out of or resulting from any	
9	action taken under this Section.	96
10	(e) The Agency shall have the authority to approve or	98
11	disapprove any performance bond or other security posted	99
12	pursuant to subsection (a) of this Section. Any person whose	100
13	performance bond or other security is disapproved by the	101
14	Agency may contest the disapproval as a permit denial appeal	
15	pursuant to Section 40 of this Act.	102
16	(f) The Agency may establish such procedures as it may	104
17	deem necessary for the purpose of implementing and executing	105
18	its responsibilities under this Section.	
19	(g) Nothing in this Section shall bar a cause of action	107
20	by the State for any other penalty or relief provided by this	108
21	Act or any other law.	109
22	Section 2. This Act takes effect upon becoming law.	111

BILL 19

Background

The Illinois State Scholarship Commission promulgated rules which required recipients of the Correctional Officer's Survivor Grant Program grants to maintain satisfactory academic progress. During its review of these rules, the Joint Committee on Administrative Rules determined that the Commission lacked the statutory authority to impose such requirements.

The ISSC explained that it has always been ISSC policy to require satisfactory academic progress of grant recipients in all programs administered by the ISSC. Section 30-15.8(b) of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1983, ch. 122, par. 3015 et seq.), requires that students receiving grants or scholarships under the Law to be students "in good standing." The ISSC explained that it uses "satisfactory academic progress" instead of "in good standing" in the rules because the former term is used in federal regulations. The ISSC further explained that because the Correctional Officer's Survivor Grant Program is part of the Higher Education Student Assistance Law, recipients must comply with the provisions thereof. An examination of the Higher Education Student Assistance Law revealed that Section 30-15.8(b) is not applicable to the Correctional Officer's Survivor Grant Program. Section 30-15 of the School Code states: "Sections 30-15.1 through 30-15.13 shall be known and may be cited as the Higher Education Student Assistance Law." The Correctional Officer's Survivor Grant Program is set forth in Section 30-14.4 of the School Code, and is not included in the above quoted Section.

Because the Commission lacks the authority to impose a requirement of satisfactory academic progress upon recipients of grants under this program, the Joint Committee suggested that legislation be drafted to impose this requirement.

Summary

Amends Section 30-14.4 of the School Code (Ill. Rev. Stat. 1983, ch. 122, par. 30-14.4) to allow the Illinois State Scholarship Commission to require that recipients of the Correctional Officer's Survivor Grant Program maintain satisfactory academic progress. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 122, par. 30-14.4)

Amends The School Code to allow the Illinois State Scholarship Commission to require that recipients of correctional employee dependent survivor scholarships maintain satisfactory academic progress. Effective immediately.

LRB8408155THjs

A BILL FOR

1 AN ACT to amend Section 30-14.4 of "The School Code", 51
2 approved March 18, 1961, as amended. 53

3 Be it enacted by the People of the State of Illinois, 57
4 represented in the General Assembly:

5 Section 1. Section 30-14.4 of "The School Code", 59
6 approved March 18, 1961, as amended, is amended to read as 60
7 follows:

 (Ch. 122, par. 30-14.4) 62

8 Sec. 30-14.4. Scholarships for dependents of Department 64
9 of Corrections employees killed or permanently disabled in 65
10 the line of duty.

11 Any spouse, natural child, legally adopted child or child 67
12 in the legal custody of an employee of the Department of 68
13 Corrections who is assigned to a security position with the 69
14 Department with responsibility for inmates of any 70
15 correctional institution under the jurisdiction of the 71
16 Department and who is killed or permanently disabled with 90%
17 to 100% disability in the line of duty is entitled to 8 72
18 semesters or 12 quarters of full payment of tuition and 73
19 mandatory fees at any State-supported Illinois institution of 74
20 higher learning for either full or part-time study, or 8 75
21 semesters or 12 quarters of payment of tuition and mandatory 76
22 fees at the rate established by the Illinois State 77
23 Scholarship Commission for private institutions in the State
24 of Illinois, provided the recipient is maintaining 78
25 satisfactory academic progress. The benefits of this Section 79
26 shall be administered by and paid out of funds available to 80
27 the Illinois State Scholarship Commission and shall accrue to 81
28 the bona fide applicant without the requirement of 82
29 demonstrating financial need to qualify for such benefits. 83
30 Section 2. This Act shall take effect upon becoming law. 85

BILL 20

Background

At its meeting on June 12, 1984, the Joint Committee suggested that the Illinois Guardianship and Advocacy Commission promulgate rules concerning the Legal Advocacy Service and seek legislation to amend Section 5(i) of the Guardianship and Advocacy (Ill. Rev. Stat. 1983, ch. 91½, par. 701 et seq.) Act if it believes that it should be allowed to waive payment of fees in certain cases where the eligible recipient of legal services is able to pay.

In addition, because the Commission had not made legal referrals "to the extent practicable" as required by Section 11 of the Guardianship and Advocacy Act (Ill. Rev. Stat. 1983, ch. 91½, par. 711), the Joint Committee at its June 12, 1984 meeting directed staff to draft legislation requiring the Guardianship and Advocacy Commission to make referrals of a potential client to the extent practicable without regard to a request by the client. The Committee has recommended that the Commission's rules contain standards for determining the number of referrals that will be made based on the availability of private attorneys.

Further, the Joint Committee objected to Section 350.1105 of the Guardianship and Advocacy Commission's Legal Advocacy Services rules. The objection was issued on the basis that the definition of "income" contained in the Commission's rules exceeds its statutory authority under the Act by considering the financial resources of the client's entire family unit in determining the client's ability to pay for legal services. The Committee therefore suggested that the Commission seek legislation to amend Section 11 of the Act. This bill clarifies whose resources may be considered as those of the person or ward by requiring that the rules of the Commission evaluate an eligible person's or ward's ability to pay based on the number of family unit members who are dependent upon the client as determined during the time the client is legally responsible.

Summary

Amends Sections 5 and 11 of the Guardianship and Advocacy Act to require the Guardianship and Advocacy Commission to set forth in its rules the procedures by which the fee eligible persons must pay for legal services is determined, and the procedures by which it will attempt to secure private counsel for eligible persons. The amendment also requires the Legal Advocacy Service to make a good faith effort to obtain private counsel for eligible persons, and adds a new provision stating that the Commission's rules are subject to the requirements of the Illinois Administrative Procedure Act. Effective immediately.

Idr

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: ! (Ch. 91 1/2, pars. 705, 711; new par. 737)

Amends the Guardianship and Advocacy Act. Establishes specific criteria for the Guardianship and Advocacy Commission to use in determining eligibility for legal or guardianship services. Requires the Commission to establish, by rule and regulation, procedures by which it will attempt to assist eligible persons to engage private counsel and procedures by which clients eligible to receive legal services may appeal the termination or suspension of such services prior to termination or suspension. Effective immediately.

LRB8407589SFtc

A BILL FOR

1 AN ACT to amend Sections 5 and 11 of and to add Section 59
 2 37 to the "Guardianship and Advocacy Act", approved January 61
 3 8, 1979, as amended. 62

4 Be it enacted by the People of the State of Illinois, 66
 5 represented in the General Assembly:

6 Section 1. Sections 5 and 11 of the "Guardianship and 68
 7 Advocacy Act", approved January 8, 1979, as amended, is 69
 8 amended, and Section 37 is added thereto, the added and 70
 9 amended Sections to read as follows:

(Ch. 91 1/2, par. 705) 72

10 Sec. 5. (a) The Commission shall establish throughout 74
 11 the State such regions as it considers appropriate to 75
 12 effectuate the purposes of the Authority under this Act, 76
 13 taking into account the requirements of State and federal 77
 14 statutes; population; civic, health and social service
 15 boundaries; and other pertinent factors. 78

16 (b) The Commission shall act through its divisions as 80
 17 provided in this Act.

18 (c) The Commission shall establish general policy 82
 19 guidelines for the operation of the Legal Advocacy Service, 83
 20 Authority and State Guardian in furtherance of this Act. Any 84
 21 action taken by a regional authority is subject to the review 85
 22 and approval of the Commission. The Commission may
 23 disapprove any action of a regional authority, in which case 86
 24 the regional authority shall cease such action. 87

25 (d) The Commission shall hire a Director and staff to 89
 26 carry out the powers and duties of the Commission and its 90
 27 divisions pursuant to this Act and the rules and regulations 91
 28 promulgated by the Commission. All staff other than the 92
 29 Director shall be subject to the "Personnel Code", as now or
 30 hereafter amended.

31 (e) The Commission shall review and evaluate the 94
 32 operations of the divisions.

1 (f) The Commission shall operate subject to the 98
2 provisions of "The Illinois Purchasing Act", approved July 99
3 11, 1957, as now or hereafter amended.

4 (g) The Commission shall prepare its budget. 101

5 (h) The Commission shall prepare an annual report on its 103
6 operations and submit the report to the Governor and the 104
7 General Assembly.

8 The requirement for reporting to the General Assembly 106
9 shall be satisfied by filing copies of the report with the 107
10 Speaker, the Minority Leader and the Clerk of the House of 108
11 Representatives and the President, the Minority Leader and 109
12 the Secretary of the Senate and the Legislative Research Unit 110
13 Council, as required by Section 3.1 of "An Act to revise the 111
14 law in relation to the General Assembly", approved February 112
15 25, 1874, as amended, and filing such additional copies with 113
16 the State Government Report Distribution Center for the
17 General Assembly as is required under paragraph (t) of 114
18 Section 7 of the State Library Act.

19 (i) The Commission shall establish rules and regulations 116
20 for the conduct of the work of its divisions, including rules 117
21 and regulations for the Legal Advocacy Service and the State 118
22 Guardian in evaluating an eligible person's or ward's 119
23 financial resources for the purpose of determining whether
24 the eligible person or ward has the ability to pay for legal 121
25 or guardianship services received. The determination of the 122
26 eligible person's financial ability to pay for legal services 123
27 shall be based upon the number of dependents in the eligible
28 person's family unit and the income, liquid assets and 124
29 necessary expenses, as prescribed by rule of the Commission 125
30 of: (1) the eligible person; (2) the eligible person's 126
31 spouse; and (3) the parents of minor eligible persons. The 127
32 determination of a ward's ability to pay for guardianship
33 services shall be based upon the ward's estate. An eligible 129
34 person or ward found to have sufficient financial resources 130
35 shall be required to pay the Commission in accordance with 131

1 standards established by the Commission. No fees may be 132
2 charged for legal or guardianship services given unless the 133
3 eligible person or ward is given notice at the start of such 134
4 services that such fees might be charged. All fees 135
5 collected shall be deposited with the State Treasurer and 136
6 placed in the General Revenue Fund. The Commission shall 137
7 establish rules and regulations regarding the procedures of 138
8 appeal for clients prior to termination or suspension of 139
9 legal services. Such rules and regulations shall include, 140
10 but not be limited to, client notification procedures prior 141
11 to the actual termination, the scope of issues subject to 142
12 appeal, and procedures specifying when a final administrative 143
13 decision is made. 144

14 (j) The Commission shall take such actions as it deems 145
15 necessary and appropriate to receive private, federal and 146
16 other public funds to help support the divisions. 147

17 (k) The Commission may expend funds under the State's 148
18 plan to protect and advocate the rights of developmentally 149
19 disabled persons established under the federal "Developmental 150
20 Disabilities Services and Facilities Construction Act" 151
21 (Public Law 94-103, Title II), as now or hereafter amended. 152
22 If the Governor designates the Commission to be the 153
23 organization or agency to provide the services called for in 154
24 the State plan, the Commission shall make these protection 155
25 and advocacy services available to developmentally disabled 156
26 persons by referral or by contracting for these services to 157
27 the extent practicable. If the Commission is unable to so 158
28 make available such protection and advocacy services, it 159
29 shall provide them through persons in its own employ. 160

(Ch. 91 1/2, par. 711) 161

30 Sec. 11. The Legal Advocacy Service shall make available 162
31 counsel for eligible persons by referral or by contracting 163
32 for legal services to the extent practicable. The Legal 164
33 Advocacy Service shall make a good faith effort to assist 165
34 eligible persons to engage private counsel, and to contact 166

1 private counsel for eligible persons whose disabilities limit 163
2 their capacity to independently contact private counsel. If 164
3 the Legal Advocacy Service is unable to so make available 165
4 counsel, it shall provide attorneys in its own employ. 167
5 Taking into consideration the availability of private counsel
6 in the eligible person's local area, the Commission shall 168
7 establish, by rule, the standards and procedures by which it 169
8 will attempt to assist eligible persons to engage private 170
9 counsel. 171
 (Ch. 91 1/2, new par. 737) 173
10 Sec. 37. Rules and regulations adopted by the Commission 175
11 pursuant to authority granted under this Act shall be subject 176
12 to the provisions of the Illinois Administrative Procedure 177
13 Act.
14 Section 2. This Act shall take effect upon its becoming a 179
15 law.

BILL 21

Background

During its review of the Department of Public Aid's rules concerning work incentive demonstration participation, the Joint Committee issued an objection to the Department's rulemaking. The objection was issued because the Department failed to adequately set forth the standards it used in sanctioning registrants under the program. The Department has refused to modify or withdraw the rulemaking in response to the objection. Upon review of the Department's response, the Joint Committee directed staff to draft legislation to require the Department to set standards for the sanctioning of registrants under the work incentive program.

Summary

Amends Section 4-1.10 of the Public Aid Code (Ill. Rev. Stat. 1983, ch. 23, par. 4-1.10) to require the Department of Public Aid to include within its rules standards used to determine when registrants shall be sanctioned under the Work Demonstration Program.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 23, par. 4-1.10)

Amends the Public Aid Code. Provides for certain rules governing sanctions of participants in the Work Demonstration Program. Effective immediately.

LRB8407590BDjs

A BILL FOR

1	AN ACT to amend Section 4-1.10 of "The Illinois Public	47
2	Aid Code", approved April 11, 1967, as amended.	49
3	<u>Be it enacted by the People of the State of Illinois,</u>	53
4	<u>represented in the General Assembly:</u>	
5	Section 1. Section 4-1.10 of "The Illinois Public Aid	55
6	Code", approved April 11, 1967, as amended, is amended to	56
7	read as follows:	
	(Ch. 23, par. 4-1.10)	58
8	Sec. 4-1.10. Acceptance of Assignment to Job Search,	60
9	Training and Work Programs. An individual for whom the job	61
10	search, training and work programs established under Section	62
11	9-6 of Article IX are applicable must accept assignment to	63
12	such programs. This Section shall be operative only to the	64
13	extent that it does not conflict with the Federal Social	
14	Security Act, or any other federal law or federal regulation	65
15	governing the receipt of federal grants for aid provided	66
16	under this Article. The Illinois Department and the local	67
17	governmental unit shall determine, pursuant to rules and	
18	regulations, sanctions for persons failing to comply with the	68
19	requirements under this Section. <u>The Illinois Department's</u>	69
20	<u>rules governing the sanctioning of registrants under the Work</u>	70
21	<u>Demonstration Program shall include, without limitation,</u>	71
22	<u>specific descriptions and examples of the types of conduct</u>	72
23	<u>which will be deemed a serious disruption of the Program and</u>	
24	<u>the standards for the sanctioning of registrants under the</u>	73
25	<u>Program.</u> Sanctions may include the loss of eligibility to	74
26	receive aid under this Article for up to 3 months for the	75
27	first occurrence and for up to 6 months for the second and	76
28	subsequent occurrences. If the sanctioned individual is not	77
29	the principal earner as defined by Federal law in an	78
30	assistance unit receiving aid under this Article, only that	
31	individual is ineligible for public assistance during the	79
32	sanction period. If the sanctioned individual is the	80

1	principal earner in an assistance unit receiving aid under	81
2	this Article, the entire assistance unit is ineligible for	82
3	public assistance during the sanction period.	
4	Section 2. This Act shall take effect upon becoming law.	84

BILL 22

Background

During the review of the Department of Alcoholism and Substance Abuse's rules implementing the Alcoholism and Substance Abuse Act (77 Ill. Adm. Code 2030), the Joint Committee on Administrative Rules voted to recommend that legislation be drafted to require the Department to promulgate rules delineating the standards used in making various determinations, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Specifically, the Joint Committee objected to the Department's lack of standards regarding funding priorities, extensions for revenue/expense reporting requirements, and exemptions from the rules.

Summary

Amends Section 6 of the Alcoholism and Substance Abuse Act (Ill. Rev. Stat. 1984 Supp., ch. 111½, par. 6306) to require the Department of Alcoholism and Substance Abuse to promulgate rules which delineate the standards used by the Department in determining whether to grant extensions of time to providers in submitting revenue expense reporting information required by the Department.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 111 1/2, par. 6306)

Amends the Alcoholism and Substance Abuse Act to require the Department of Alcoholism and Substance Abuse to include in its rules the funding priorities of the Department, the standards used by the Department in determining whether to allow exemptions from the revenue/expense reporting requirements and the standards used in determining whether to allow exemptions to the rules.

LRB8408154GLsb

A BILL FOR

1 AN ACT to amend Section 6 of the "Alcoholism and 55
2 Substance Abuse Act", certified December 2, 1983, as amended. 56

3 Be it enacted by the People of the State of Illinois, 61
4 represented in the General Assembly:

5 Section 1. Section 6 of the "Alcoholism and Substance 63
6 Abuse Act", certified December 2, 1983, as amended, is 64
7 amended to read as follows:

(Ch. 111 1/2, par. 6306) 66

8 Sec. 6. In addition to the powers, duties and functions 69
9 vested in it by other provisions of this Act, or by other 70
10 laws of this State, the Department shall have the powers,
11 duties and functions enumerated below: 71

12 (a) To establish comprehensive and coordinated programs 74
13 and activities for the provision of early intervention,
14 treatment, rehabilitation, prevention, and education 75
15 services, including education of the elderly, directed at 76
16 alleviating alcoholism, alcohol abuse and misuse, drug 77
17 addiction, and other drug abuse and misuse, including abuse 78
18 and misuse of prescription drugs. The Director shall divide 79
19 the State into not less than 4 regions and establish regional 80
20 offices to review, monitor, and assist the programs and
21 provide standards for the development of programs on the 81
22 regional level. In establishing the regions, consideration 82
23 shall be given to city, town and county lines; population 83
24 concentrations, and regional boundaries established by other 84
25 State agencies and local organizations. Regional boundaries 85
26 shall not be used to deny or limit referral or delivery of 86
27 services at the nearest and most appropriate location.

28 (b) To develop an annual comprehensive State plan for 88
29 the provision of early intervention, treatment, 89
30 rehabilitation, prevention, education, including education of 90
31 the elderly, and other services and activities to alleviate 91
32 alcoholism, alcohol abuse and misuse, drug addiction, and 92

1	other drug abuse and misuse, including abuse and misuse of	93
2	prescription drugs. The plan shall include a statement of	94
3	problems, needs, priorities, services and other pertinent	95
4	information for the entire State and each region of the	
5	State. Such plan shall also include a statement of the needs	96
6	of minorities and other specific populations. In the	97
7	development of the plan, input shall be sought from	98
8	providers, parent groups, associations, and interested	99
9	citizens including the Illinois Advisory Council on	100
10	Alcoholism and Substance Abuse.	
11	(c) To establish a clearinghouse and central repository	102
12	for the development and maintenance of a centralized alcohol	103
13	and drug abuse data collection and dissemination system and a	104
14	management information system for all alcohol and drug abuse	
15	functions, in accordance with the confidentiality safeguards	105
16	under this Act.	
17	(d) To prepare a comprehensive plan for treatment of	107
18	alcoholics, addicts, drug abusers and intoxicated persons for	108
19	inclusion in the State comprehensive health plan.	109
20	(e) To review all State health, welfare and treatment	111
21	plans to be submitted for Federal funding under Federal	112
22	legislation that include provisions relating to alcoholism,	113
23	addiction, drug abuse and intoxicated persons.	
24	(f) To develop, encourage, and foster statewide,	115
25	regional, and local plans and programs for the prevention of	116
26	alcoholism and drug abuse and treatment of alcoholics and	117
27	addicts in cooperation with public and private agencies,	118
28	organizations, schools and individuals and provide technical	
29	assistance and consultation services for these purposes.	119
30	(g) To specify uniform methods for keeping statistical	121
31	information by agencies, organizations and individuals and to	122
32	collect and make available statistical information, including	123
33	number of persons treated, frequency of admission and	124
34	readmission and frequency and duration of treatment.	
35	(h) To receive data and assistance from federal, State	126

1 and local governmental agencies and to obtain copies of 127
2 identification and arrest data from all federal, State and 128
3 local law enforcement agencies for use in treatment, 129
4 research, evaluation, licensing, regulation and monitoring.
5 Information so obtained shall remain confidential. 130
6 (i) To coordinate the funding of alcoholism and drug 132
7 abuse functions, to accept gifts or grants and to act as the 134
8 sole state agency to accept, receive and expend funds, grants 135
9 and services from the Federal Government or its agents for 136
10 the purposes set forth in Federal statutes relative to drug 137
11 abuse and alcoholism and to deposit such federal funds into 138
12 the Alcoholism and Substance Abuse Fund in the State Treasury
13 which is hereby created, except funds received under the 139
14 federal Alcohol, Drug Abuse and Mental Health Block Grant, 140
15 which shall be deposited as elsewhere provided. Obligation 142
16 and expenditure of public funds in the Fund may be made by 143
17 the Department subject to appropriations by the General 144
18 Assembly.
19 (j) To make such agreements, grants-in-aid and 146
20 purchase-care arrangements with any other Department, 147
21 authority or Commission of this State, of any other state or 149
22 of the federal government, with any State or private 150
23 university or with any public or private agency, including
24 the furnishing of staff and disbursement of funds, as are 151
25 appropriate to effectuate the purposes of this Act. 152
26 (k) To designate and maintain medical examination and 154
27 other facilities for alleged addicts or alcoholics for the 155
28 purpose of determining whether such persons are addicts or 156
29 alcoholics.
30 (l) To designate, coordinate and assist rehabilitation 158
31 centers and other necessary facilities for the supervision 159
32 and treatment of addicts, alcoholics and abusers of alcohol 160
33 or drugs.
34 (m) To assign or transfer any addict placed under the 162
35 treatment supervision of the Department pursuant to this Act 163

1 to any person, association or corporation providing 164
2 facilities or services approved by the Department pursuant to
3 procedures and policies adopted by the Department, and agreed 165
4 to by the person, association, or corporation to whom such 166
5 addict is to be assigned or transferred; provided, however, 167
6 that any addict so transferred shall nevertheless continue to 168
7 be under the treatment supervision of the Department.

8 (n) To coordinate the efforts and enlist the assistance 170
9 of all public and private agencies, organizations, and 171
10 individuals interested in prevention of alcoholism and drug 172
11 abuse.

12 (o) To cooperate with the Department of Corrections in 174
13 establishing and conducting programs to provide treatment for 175
14 alcoholics and addicts in or on parole from penal 176
15 institutions.

16 (p) To cooperate with the State Superintendent of 178
17 Education, boards of education, schools, police departments, 179
18 courts, and other public and private agencies, organizations 180
19 and individuals in establishing programs for the prevention 181
20 of alcoholism and drug abuse and treatment of alcoholics and 182
21 addicts, and preparing curriculum materials thereon for use 183
22 at all levels of education, and to establish alcohol and 184
23 substance abuse education and prevention programs in all 185
24 Educational Service Regions in the State and to enter into 185
25 agreements with the State Board Superintendent of Education
26 to establish such education and prevention programs. 186

27 (q) To prepare, publish, evaluate, and disseminate 188
28 educational material dealing with the nature and effects of 199
29 alcohol and dangerous drugs.

30 (r) To develop and implement, as an integral part of 191
31 treatment programs, an educational program for use in the 192
32 treatment of alcoholics and addicts, which program shall 193
33 include the dissemination of information concerning the 194
34 nature and effects of alcohol and drugs.

35 (s) To develop and coordinate, with regional and local 196

1	agencies, education and training programs for all persons	198
2	engaged in treatment and detoxification of alcoholics and	199
3	intoxicated persons, and in the rehabilitation of addicts.	
4	(t) To assist in the development of, and cooperate with,	201
5	alcohol and drug education and treatment programs for	203
6	employees of State and local governments and businesses and	204
7	industries in the State.	
8	(u) To utilize the support and assistance of interested	206
9	persons in the community, particularly recovered addicts and	207
10	alcoholics, to encourage clients voluntarily to undergo	208
11	treatment.	
12	(v) To promote and encourage general hospitals and other	210
13	appropriate health facilities to admit without discrimination	211
14	alcoholics, addicts, drug abusers and intoxicated persons and	212
15	to provide them with adequate and appropriate treatment.	213
16	(w) To encourage all health and disability insurance	215
17	programs to include alcoholism and substance abuse as a	217
18	covered illness.	
19	(x) To promote, conduct, assist and sponsor basic,	219
20	clinical, epidemiological and statistical research in	220
21	alcoholism and substance abuse either individually or in	222
22	conjunction with any public or private agency.	
23	(y) To explore the feasibility of drafting a "Uniform	224
24	Drug Arrest Form" to be used by all law enforcement agencies	225
25	in this State. This form would be completed in all arrests	226
26	involving the violation of law in relation to dangerous drugs	227
27	and alcohol. The information contained in the completed form	228
28	would include all data traditionally included in police forms	229
29	as well as such specialized facts as may be of relevance to	230
30	the Department in drafting its annual report.	
31	(z) To disseminate information relating to available	232
32	services for addicts and abusers of dangerous drugs,	233
33	alcoholics and intoxicated persons including an annual list	234
34	of all public and private treatment facilities.	
35	(aa) To promulgate such rules and regulations as are	236

1 necessary to the exercise of the Department's powers and 237
2 duties under this Act. Such rules shall include: (i) the 238
3 funding priorities of the Department; (ii) the standards used 239
4 in determining whether to allow exemptions from the 240
5 revenue/expense reporting requirements; and (iii) the
6 standards used in determining whether to allow any exemptions 241
7 to the rules.
8 (bb) To encourage and promote the assessment and 243
9 collection of fees for services provided by alcohol and drug 244
10 abuse treatment programs and service providers who receive 245
11 financial assistance in any form, directly or indirectly from
12 the State or any of its departments or agencies; provided 246
13 however, that no person shall be denied services by any 247
14 program or facility approved or assisted under this Act 248
15 because of inability to pay.
16 (cc) To cooperate with the Department of Public Aid in 250
17 the development and provision of services offered to 251
18 recipients of public assistance for the treatment and 252
19 prevention of alcoholism and substance abuse. 253

BILL 23

Background

Following a review of the Department of Employment Security's rules (56 Ill. Adm. Code 2720), the Joint Committee on Administrative Rules issued an objection based upon the Department's failure to include within its rules the standards used by the Department to determine whether a claimant is "able to work, available for work, and actively seeking work." The Department responded to the Committee's objection by stating that these terms have significance as applied to an individual's experience, skills, physical and mental condition. Any attempt, however, to itemize these factors per individual, according to the Department, is neither feasible nor is it desirable, and therefore the Department refused to amend the rules. In refusing to modify its rules, the Department fails to recognize that pursuant to Section 4.02 of the Illinois Administrative Procedure Act, standards are required in order to fully inform those persons affected by the rules so that those persons will not be forced to resort to courts of law for case-by-case determinations regarding the ability, availability, and adequacy of the work search. The Department had detailed explanations of these terms in its Precedent Manuals and Policy Bulletins which have evolved over an extended period of time which presented much more detailed standards than those proposed by the Department, and currently uses a Digest of Opinions in making such determinations.

Because the Department made no attempt to amend its rules to include the standards to determine whether a claimant is able, available, and actively seeking work, the Joint Committee recommended that the Unemployment Insurance Act be amended to require the Department to include within its rules the standards it uses.

Summary

Amend Section 500 of the Unemployment Insurance Act (Ill. Rev. Stat. 1984 Supp., ch. 48, par. 420) to require the Department of Employment Security to adopt rules, within one year of the effective date of this Act, which delineate the standards the Department uses in determining whether a claimant for unemployment insurance benefits is able to work, available to work and actively seeking work. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 48, par. 420)

Amends The Unemployment Insurance Act to require the Department of Employment Security to adopt within one year after the effective date of this amendatory Act standards used by the Department in determining whether a claimant for unemployment compensation is able to work, available for work and actively seeking work. Specifies the standards that may be used by the Department in making such determination. Effective immediately.

LRB8407707RCm1

A BILL FOR

1 AN ACT to amend Section 500 of "The Unemployment 59
2 Insurance Act", approved June 30, 1937, as amended. 61

3 Be it enacted by the People of the State of Illinois, 65
4 represented in the General Assembly:

5 Section 1. Section 500 of "The Unemployment Insurance 67
6 Act", approved June 30, 1937, as amended, is amended to read 68
7 as follows:

 (Ch. 48, par. 420) 70

8 Sec. 500. Eligibility for benefits. An unemployed 72
9 individual shall be eligible to receive benefits with respect 73
10 to any week only if the Director finds that: 74

11 A. He has registered for work at and thereafter has 76
12 continued to report at an employment office in accordance 77
13 with such regulations as the Director may prescribe, except 78
14 that the Director may, by regulation, waive or alter either 79
15 or both of the requirements of this subsection as to 80
16 individuals attached to regular jobs, and as to such other 81
17 types of cases or situations with respect to which he finds 82
18 that compliance with such requirements would be oppressive or 83
19 inconsistent with the purposes of this Act, provided that no 84
20 such regulation shall conflict with Section 400 of this Act. 84

21 B. He has made a claim for benefits with respect to such 86
22 week in accordance with such regulations as the Director may 87
23 prescribe.

24 C. He is able to work, and is available for work; 89
25 provided that during the period in question he was actively 90
26 seeking work and he has certified such on a form provided by 91
27 the Department listing the places at which he has sought 92
28 work; however, nothing in this subsection shall limit the 93
29 Director's approval of alternate methods of demonstrating an 94
30 active search for work based on regular reporting to a trade 94
31 union office.

32 1. If an otherwise eligible individual is unable to work 96

1 or is unavailable for work on any normal workday of the week, 97
2 he shall be eligible to receive benefits with respect to such , 98
3 week reduced by one-fifth of his weekly benefit amount for 99
4 each day of such inability to work or unavailability for 100
5 work. For the purposes of this paragraph, an individual who 101
6 reports on a day subsequent to his designated report day 102
7 shall be deemed unavailable for work on his report day if his
8 failure to report on that day is without good cause, and on 103
9 each intervening day, if any, on which his failure to report 104
10 is without good cause. As used in the preceding sentence, 105
11 "report day" means the day which has been designated for the 106
12 individual to report to file his claim for benefits with 107
13 respect to any week. This paragraph shall not be construed
14 so as to effect any change in the status of part-time workers 108
15 as defined in Section 407. 109

16 2. An individual shall be considered to be unavailable 111
17 for work on days listed as whole holidays in "An Act to 112
18 revise the law in relation to promissory notes, bonds, due 113
19 bills and other instruments in writing," approved March 18, 114
20 1874, as amended; on days which are holidays in his religion 115
21 or faith, and on days which are holidays according to the 116
22 custom of his trade or occupation, if his failure to work on
23 such day is a result of the holiday. In determining the 117
24 claimant's eligibility for benefits and the amount to be paid 118
25 him, with respect to the week in which such holiday occurs, 119
26 he shall have attributed to him as additional earnings for 120
27 that week an amount equal to one-fifth of his weekly benefit 121
28 amount for each normal work day on which he does not work 122
29 because of a holiday of the type above enumerated.

30 3. An individual shall be deemed unavailable for work 124
31 if, after his separation from his most recent employing unit, 125
32 he has removed himself to and remains in a locality where 126
33 opportunities for work are substantially less favorable than 127
34 those in the locality he has left.

35 4. An individual shall be deemed unavailable for work 129

1 with respect to any week which occurs in a period when his 130
2 principal occupation is that of a student in attendance at, 131
3 or on vacation from, a public or private school. 132
4 5. Notwithstanding any other provisions of this Act, an 134
5 individual shall not be deemed unavailable for work or to 135
6 have failed actively to seek work, nor shall he be ineligible 136
7 for benefits by reason of the application of the provisions 137
8 of Section 603, with respect to any week, because he is 138
9 enrolled in and is in regular attendance at a training course 139
10 approved for him by the Director: (a) but only if, with
11 respect to that week, the individual presents to the claims 140
12 adjudicator referred to in Section 702 a statement executed 141
13 by a responsible person connected with the training course, 142
14 certifying that the individual was in full-time attendance at 143
15 such course during the week. The Director may approve such 144
16 course for an individual only if he finds that (1) reasonable 145
17 work opportunities for which the individual is fitted by 146
18 training and experience do not exist in his locality; (2) the
19 training course relates to an occupation or skill for which 147
20 there are, or are expected to be in the immediate future, 148
21 reasonable work opportunities in his locality; (3) the 149
22 training course is offered by a competent and reliable 150
23 agency, educational institution, or employing unit; (4) the 151
24 individual has the required qualifications and aptitudes to
25 complete the course successfully; and (5) the individual is 152
26 not receiving and is not eligible (other than because he has 153
27 claimed benefits under this Act) for subsistence payments or 154
28 similar assistance under any public or private retraining 155
29 program: Provided, that the Director shall not disapprove 156
30 such course solely by reason of clause (5) if the subsistence
31 payment or similar assistance is subject to reduction by an 157
32 amount equal to any benefits payable to the individual under 158
33 this Act in the absence of the clause. In the event that an 159
34 individual's weekly unemployment compensation benefit is less 160
35 than his certified training allowance, that person shall be 161

1 eligible to receive his entire unemployment compensation 162
2 benefits, plus such supplemental training allowances that
3 would make an applicant's total weekly benefit identical to 163
4 the original certified training allowance. 164
5 (b) The Director shall have the authority to grant 166
6 approval pursuant to subparagraph (a) above prior to an 167
7 individual's formal admission into a training course. 168
8 Requests for approval shall not be made more than 30 days 169
9 prior to the actual starting date of such course. Requests
10 shall be made at the appropriate unemployment office. 170
11 (c) The Director shall for purposes of paragraph C have 172
12 the authority to issue a blanket approval of training 173
13 programs implemented pursuant to the Comprehensive Employment 174
14 and Training Act and the Job Training Partnership Act if both 175
15 the training program and the criteria for an individual's
16 participation in such training meet the requirements of this 176
17 paragraph C.
18 6. Notwithstanding any other provisions of this Act, an 178
19 individual shall not be deemed unavailable for work or to 179
20 have failed actively to seek work, nor shall he be ineligible 180
21 for benefits, by reason of the application of the provisions 181
22 of Section 603 with respect to any week because he is in 182
23 training approved under Section 236 (a)(1) of the federal
24 Trade Act of 1974, nor shall an individual be ineligible for 183
25 benefits under the provisions of Section 601 by reason of 184
26 leaving work voluntarily to enter such training if the work 185
27 left is not of a substantially equal or higher skill level
28 than the individual's past adversely affected employment as 186
29 defined under the federal Trade Act of 1974 and the wages for 187
30 such work are less than 80% of his average weekly wage as 188
31 determined under the federal Trade Act of 1974.
32 D. The Department shall adopt, within one year of the 190
33 effective date of this amendatory Act of 1986, rules which 191
34 prescribe the standards used by the Department in determining 192
35 whether a claimant is able to work, available for work and 193

1	<u>actively seeking work.</u>	193
2	1. <u>The standards used in determining whether a claimant</u>	195
3	<u>is able to work may include, but shall not be limited to, the</u>	196
4	<u>extent to which types of physical or mental conditions (such</u>	197
5	<u>as age, contagious disease, loss of hearing, speech, vision,</u>	198
6	<u>loss of use of limb, illness or injury, intoxication or</u>	199
7	<u>pregnancy) render the claimant unable to work.</u>	
8	2. <u>The standards used in determining whether a claimant</u>	201
9	<u>is available for work may include, but shall not be limited</u>	202
10	<u>to, what is considered by the Department to be suitable work</u>	203
11	<u>in terms of experience and training, the types of work which</u>	204
12	<u>will be considered by the Department to be outside the</u>	205
13	<u>claimant's customary occupation, the types of working</u>	
14	<u>conditions which will be considered by the Department to</u>	206
15	<u>constitute a risk to the health and safety of the claimant,</u>	207
16	<u>and the types of personal circumstances which will be</u>	208
17	<u>considered by the Department in determining whether a</u>	
18	<u>claimant is available for work, such as the distance to work,</u>	209
19	<u>care of children, household duties, illness, or death of</u>	210
20	<u>others, voluntary leaving, incarceration, and public service.</u>	211
21	<u>In addition, the standards shall include an explanation of</u>	212
22	<u>the Department's consideration of claimant imposed</u>	213
23	<u>restrictions on the types of work he or she will accept, such</u>	
24	<u>as religious and moral objections, contractual obligations,</u>	214
25	<u>physical restrictions, travel restrictions and wage</u>	215
26	<u>restrictions.</u>	
27	3. <u>The standards used in determining whether a claimant</u>	217
28	<u>is actively seeking work may include, but shall not be</u>	218
29	<u>limited to, the type and amount of work search effort</u>	219
30	<u>required, negative attitudes or behavior or other evidence</u>	220
31	<u>indicative of an insincere work search, any methods which</u>	
32	<u>must be utilized in seeking employment, the relevance of the</u>	221
33	<u>failure to take advantage of a job opportunity and the</u>	222
34	<u>failure to apply for work as directed by an employer,</u>	223
35	<u>appearance in relation to the type of employment sought, and</u>	224

1	<u>any consideration to be given to existing labor market</u>	224
2	<u>conditions.</u>	
3	<u>E. B-</u> If his benefit year begins prior to July 6, 1975	226
4	or subsequent to January 2, 1982, he has been unemployed for	228
5	a waiting period of 1 week during such benefit year. If his	229
6	benefit year begins on or after July 6, 1975, but prior to	
7	January 3, 1982, and his unemployment continues for more than	231
8	three weeks during such benefit year, he shall be eligible	232
9	for benefits with respect to each week of such unemployment,	
10	including the first week thereof. An individual shall be	233
11	deemed to be unemployed within the meaning of this subsection	234
12	while receiving public assistance as remuneration for	235
13	services performed on work projects financed from funds made	236
14	available to governmental agencies for such purpose. No week	237
15	shall be counted as a week of unemployment for the purposes	238
16	of this subsection:	
17	1. Unless it occurs within the benefit year which	240
18	includes the week with respect to which he claims payment of	241
19	benefits, provided that, for benefit years beginning prior to	242
20	January 3, 1982, this requirement shall not interrupt the	243
21	payment of benefits for consecutive weeks of unemployment;	244
22	and provided further that the week immediately preceding a	245
23	benefit year, if part of one uninterrupted period of	246
24	unemployment which continues into such benefit year, shall be	
25	deemed (for the purpose of this subsection only and with	247
26	respect to benefit years beginning prior to January 3, 1982,	248
27	only) to be within such benefit year, as well as within the	249
28	preceding benefit year, if the unemployed individual would,	250
29	except for the provisions of the first paragraph and	251
30	paragraph 1 of this subsection and of Section 605, be	
31	eligible for and entitled to benefits for such week.	252
32	2. If benefits have been paid with respect thereto.	254
33	3. Unless the individual was eligible for benefits with	256
34	respect thereto except for the requirements of this	257
35	subsection and of Section 605.	258

1 F. E. With respect to any benefit year beginning prior 260
2 to January 3, 1982, he has been paid during his base period 261
3 wages for insured work not less than the amount specified in 262
4 this paragraph Section--~~500E--of-this-Act~~ as amended and in 264
5 effect on October 5, 1980. With respect to any benefit year 265
6 beginning on or after January 3, 1982, he has been paid 266
7 during his base period wages for insured work equal to not 267
8 less than \$1,600, provided that he has been paid wages for 268
9 insured work equal to at least \$440 during that part of his 269
10 base period which does not include the calendar quarter in 270
11 which the wages paid to him were highest. 270
12 Section 2. This Act takes effect upon becoming law. 272

Background

At its September 20, 1984 meeting, the Joint Committee on Administrative Rules issued a recommendation for rulemaking to the Department of Rehabilitation Services regarding Homemaker Services contracts (89 Ill. Adm. Code 712). The Joint Committee recommended that the Department promulgate rules which would set forth the criteria it employs when awarding homemaker services contracts. The Department failed to respond to the Joint Committee's rulemaking recommendation resulting in this legislative proposal.

In awarding homemaker services contracts, the Department exercises a significant discretionary power. The standards by which this discretion is exercised must be in rules pursuant to Section 4.02 of the Illinois Administrative Procedure Act. The discretionary power to award contracts is one which can have significant economic impact upon the persons or agencies applying for such contracts. Without standards for the exercise of discretion in this area, the potential for arbitrary and capricious action is great, therefore this legislation is necessary in order to require the Department to promulgate rules which include such standards.

Summary

Amends Section 3(g) of "An Act in relation to the rehabilitation of disabled persons" (Ill. Rev. Stat. 1984 Supp., ch. 23, par. 3434, as amended) to require the Department of Rehabilitation Services to promulgate as rules its standards for awarding homemaker services contracts. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 23, par. 3434)

Amends an Act in relation to rehabilitation of disabled persons. Requires that the Department of Rehabilitation Services establish by rule its standards for awarding homemaker services contracts. Effective immediately.

LRB8407585JMcs

A BILL FOR

1 AN ACT to amend Section 3 of "An Act in relation to 47
2 rehabilitation of disabled persons", approved June 28, 1921, 48
3 as amended. 49

4 Be it enacted by the People of the State of Illinois, 53
5 represented in the General Assembly:

6 Section 1. Section 3 of "An Act in relation to 55
7 rehabilitation of disabled persons", approved June 28, 1921, 56
8 as amended, is amended to read as follows:

(Ch. 23, par. 3434) 58

9 Sec. 3. The Department shall have the powers and duties 60
10 enumerated herein: 61

11 (a) To co-operate with the federal government in the 63
12 administration of the provisions of the Federal 64
13 Rehabilitation Act of 1973, as amended, and of the Federal 65
14 Social Security Act to the extent and in the manner provided 66
15 in these acts;

16 (b) To prescribe and supervise such courses of 68
17 vocational training and provide such other services as may be 69
18 necessary for the habilitation and rehabilitation of disabled 70
19 persons, including the administrative activities under 71
20 subsection (f) of this Section, and to co-operate with state 72
21 and local school authorities and other recognized agencies
22 engaged in habilitation, rehabilitation and comprehensive 73
23 rehabilitation services; and to cooperate with the Department 75
24 of Children and Family Services regarding the care and 76
25 education of handicapped children;

26 (c) To make such reports and submit such plans to the 78
27 federal government as are required by the provisions of the 79
28 Federal Rehabilitation Act of 1973, as amended, and by the 80
29 rules and regulations of the federal agency or agencies 81
30 administering the Federal Rehabilitation Act of 1973, as 82
31 amended, and the Federal Social Security Act; 83

32 (d) To report in writing, to the Governor, annually on 85

1 or before the first day of December, and at such other times 86
2 and in such manner and upon such subjects as the Governor may 87
3 require. The annual report shall contain (1) a statement of 88
4 the existing condition of comprehensive rehabilitation 89
5 services, habilitation and rehabilitation in the State; (2) a 90
6 statement of suggestions and recommendations with reference
7 to the development of comprehensive rehabilitation services, 91
8 habilitation and rehabilitation in the State; and (3) an 92
9 itemized statement of the amounts of money received from 93
10 Federal, State and other sources, and of the objects and 94
11 purposes to which the respective items of these several 95
12 amounts have been devoted;

13 (e) To furnish financial assistance to deserving blind 97
14 or deaf residents of Illinois who are regularly enrolled 98
15 students, pursuing a course of study in a university, 99
16 college, conservatory of music or a normal, professional or 100
17 vocational school. The amount of aid to any student shall 101
18 not, under ordinary circumstances exceed \$400 per annum, but 102
19 where the Department may consider that added assistance is 103
20 necessary, the amount may be increased to \$1000 per annum.
21 Money so furnished shall be expended under the direction and 104
22 supervision of the Department. Upon presentation of proper 105
23 vouchers certified and approved by the Director, the State 106
24 Comptroller shall draw his warrants therefor upon the State 107
25 Treasurer; and

26 (f) To exercise, pursuant to Section 13 of this Act, 109
27 executive and administrative supervision over all 110
28 institutions, divisions, programs and services now existing 111
29 or hereafter acquired or created under the jurisdiction of
30 the Department, including, but not limited to, the following: 113
31 The Illinois School for the Visually Impaired at 115
32 Jacksonville, as provided under Section 10 of this Act, 116
33 The Illinois School for the Deaf at Jacksonville, as 118
34 provided under Section 10 of this Act, 119
35 The Illinois Children's School and Rehabilitation Center 121

1 at Chicago, as provided under Section 11 of this Act, and 123
2 The Illinois Visually Handicapped Institute, as provided 125
3 under Section 12 of this Act. 126
4 The Department shall assume all property, records, 129
5 personnel and funds relating to these institutions from the 130
6 Department of Children and Family Services on the effective 131
7 date of this amendatory Act of 1979.
8 The transfer to the Department of employees of the 134
9 Department of Children and Family Services who are employed
10 by the transferred institutions, facilities and services does 135
11 not affect the status of such employees under the provisions 136
12 of the "Personnel Code" or other laws relating to State 137
13 employees, nor shall any admissions or obligations of such 138
14 institutions, facilities and services be affected thereby. 139
15 (g) To establish a program of services to prevent 142
16 unnecessary institutionalization of persons with Alzheimer's
17 disease and related disorders, persons in need of long term 143
18 care who are established as blind or disabled as defined by 144
19 the Social Security Act ~~or who are established as persons who~~ 145
20 ~~suffer from Alzheimer's disease or a related disorder under~~ 146
21 ~~the Alzheimer's Disease Assistance Act, enacted by the 84th~~ 147
22 ~~General Assembly~~, thereby enabling them to remain in their 148
23 own homes or other living arrangements. Such preventive 149
24 services may include, but are not limited to, any or all of 150
25 the following:
26 (1) home health services; 152
27 (2) home nursing services; 154
28 (3) homemaker services; 156
29 (4) chore and housekeeping services; 158
30 (5) day care services; 160
31 (6) home-delivered meals; 162
32 (7) education in self-care; 164
33 (8) personal care services; 166
34 (9) adult day health services; 168
35 (10) habilitation services; 170

1 (11) respite care; or 172

2 (12) other nonmedical social services that may enable 174

3 the person to become self-supporting. 175

4 The Department shall establish eligibility standards for 178

5 such services taking into consideration the unique economic 179

6 and social needs of the target population for whom they are

7 to be provided. Such eligibility standards may be based on 180

8 the recipient's ability to pay for services; provided, 181

9 however, that in determining the amount and nature of 182

10 services for which a person may qualify, consideration shall 183

11 not be given to the value of cash, property or other assets

12 held in the name of the person's spouse pursuant to a written 184

13 agreement dividing marital property into equal but separate 185

14 shares or pursuant to a transfer of the person's interest in 186

15 a home to his spouse, provided that the spouse's share of the 187

16 marital property is not made available to the person seeking 188

17 such services. The target population identified for the 189

18 purposes of this paragraph (g) are persons with an identified 190

19 need for rehabilitation services. Priority shall be given to 191

20 those who are at imminent risk of institutionalization. The 192

21 services shall be provided to eligible persons to the extent 193

22 that the cost of the services together with the other 194

23 personal maintenance expenses of the persons are reasonably

24 related to the standards established for care in a group 195

25 facility appropriate to the person's condition. These 196

26 non-institutional services, pilot projects or experimental 197

27 facilities may be provided as part of or in addition to those 198

28 authorized by federal law or those funded and administered by 199

29 the Illinois Department on Aging.

30 The Department shall execute, relative to the nursing 201

31 home prescreening project, written inter-agency agreements 202

32 with the Department on Aging and the Department of Public 203

33 Aid, to effect the following: (i) intake procedures and 204

34 common eligibility criteria for those persons who are

35 receiving non-institutional services; and (ii) the 205

1 establishment and development of non-institutional services 206
2 in areas of the State where they are not currently available
3 or are undeveloped. 207
4 The Department is authorized to charge and collect fees 209
5 for services provided under this Section, such fees to be 210
6 based upon the recipient's ability to pay for services, but 211
7 in no case to exceed the actual cost of the services 212
8 provided. By January 1, 1987, the Department shall 213
9 promulgate rules setting forth its standards for the award of 214
10 homemaker services contracts.
11 The Department and the Department on Aging shall 216
12 cooperate in the development and submission of an annual 217
13 report on programs and services provided under this Section. 218
14 Such joint report shall be filed with the Governor and the 219
15 General Assembly on or before September 30 each year. 220
16 The requirement for reporting to the General Assembly 222
17 shall be satisfied by filing copies of the report with the 223
18 Speaker, the Minority Leader and the Clerk of the House of 224
19 Representatives and the President, the Minority Leader and 225
20 the Secretary of the Senate and the Legislative Research 226
21 Unit, as required by Section 3.1 of "An Act to revise the law 227
22 in relation to the General Assembly", approved February 25, 228
23 1874, as amended, and filing such additional copies with the 229
24 State Government Report Distribution Center for the General 230
25 Assembly as is required under paragraph (t) of Section 7 of 231
26 the State Library Act.
27 (h) To establish such subdivisions of the Department as 233
28 shall be desirable and assign to the various subdivisions the 234
29 responsibilities and duties placed upon the Department by 235
30 law.
31 (i) To cooperate and enter into any necessary agreements 236
32 with the Department of Employment Security for the provision 237
33 of job placement and job referral services to clients of the 238
34 Department, including job service registration of such 239
35 clients with Illinois Employment Security offices and making 240

1	job listings maintained by the Department of Employment	241
2	Security available to such clients.	
3	(j) To possess all powers reasonable and necessary for	243
4	the exercise and administration of the powers, duties and	245
5	responsibilities of the Department which are provided for by	
6	law.	246
7	Section 2. This Act shall take effect upon becoming law.	248

BILL 25

Background

After reviewing the Law Enforcement Merit Board's rules entitled "Procedures of the Department of Law Enforcement Merit Board" (80 Ill. Adm. Code 150.680(a)), the Joint Committee on Administrative Rules discovered that Section 150.680(a) of the Board's rules was in violation of Section 4.02 of the Illinois Administrative Procedure Act, which provides that each rule which implements a discretionary power to be exercised by an agency must include the standards by which the agency shall exercise that power. The Board's rules did not include the standards used by the Board to determine whether an officer who is found not guilty or has served a greater period of suspension than prescribed by the Board shall receive compensation. The Joint Committee recommended that legislation be developed to require that the Board include within its rules the standards used by the Board to determine whether an officer will receive compensation under the previously mentioned circumstances.

Summary

Amends "An Act in relation to the State Police" (Ill. Rev. Stat. 1984 Supp., ch. 121, par. 307.13, as amended by P.A. 84-25, effective July 18, 1985) to require the Department of State Police Merit Board to include within its rule the standards it uses to determine whether compensation will be awarded to a police officer who is found not guilty or has served a greater period of suspension than prescribed by the Board. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 121, par. 307.13)

Amends an Act in relation to the State Police. Requires that the State Police Merit Board establish by rule the standards used in determining whether to compensate officers found not guilty of rules violations or suspended for a period longer than prescribed by the Board. Effective immediately.

LRB8407578JMcS

A BILL FOR

1 AN ACT to amend Section 13 of "An Act in relation to the 50
2 State Police", approved July 20, 1949, as amended. 52

3 Be it enacted by the People of the State of Illinois, 56
4 represented in the General Assembly:

5 Section 1. Section 13 of "An Act in relation to the 58
6 State Police", approved July 20, 1949, as amended, is amended 59
7 to read as follows:

 (Ch. 121, par. 307.13) 61

8 Sec. 13. Disciplinary measures prescribed by the Board 63
9 for Department of Law Enforcement officers may be taken by 64
10 the Director, Superintendent or the Deputy Director of the 65
11 Division to which the person is assigned, for the punishment 66
12 of infractions of the rules and regulations of the respective 67
13 divisions as promulgated by the Department. Such disciplinary 67
14 measures may include suspension of any such officer for a 68
15 reasonable period, not exceeding 30 days.

16 Any officer so suspended, within 10 days after 70
17 suspension, may petition the Board in writing to review the 71
18 suspension, and upon the filing of such petition with the 72
19 Board, the Board shall within a reasonable amount of time, 73
20 but no later than 30 days after the date of request for 74
21 review set the written petition for hearing before the Board 74
22 upon not less than 10 days' notice at a place to be 75
23 designated by the chairman thereof. The Board may sustain 76
24 the action of the Director, Superintendent or Deputy 77
25 Director, reverse it with instructions that the officer 78
26 receive his pay for the period involved, or reduce the length 79
27 of suspension with instructions that the officer's pay be 79
28 adjusted accordingly. No later than July 1, 1987, the Board 80
29 shall promulgate rules which include the standards to be used 81
30 in determining when compensation will be awarded to an 82
31 officer who is found not guilty or has served a greater 83
32 period of suspension than prescribed by the Board. The Board 84

1	may not increase the length of suspension imposed by the	85
2	Director, Superintendent or the Deputy Director. The Board	86
3	may, by unanimous decision, dismiss the petition if it has	87
4	determined that there is no substantial basis for its review	
5	of the suspension. In all other respects, the hearing shall	88
6	be conducted in the manner provided for in Section 14 hereof.	89
7	The provisions of the "Administrative Review Law" and the	90
8	rules adopted pursuant thereto shall apply to and govern all	91
9	proceedings for the judicial review of any order of the board	
10	rendered pursuant to the provisions of this Section.	93
11	Section 2. This Act takes effect upon becoming law.	95

BILL 26

Background

On January 17, 1985, the Joint Committee on Administrative Rules voted to object to the Illinois Community College Board's rules entitled "Administration of the Illinois Public Community College Act" (23 Ill. Adm. Code 1501). The Joint Committee's review of these rules revealed that they were incomplete because they did not specify the information that the Board requires of community college districts when they apply for approval of new colleges and branches, when they apply to extend courses into non-district territory and when they apply for approval of new programs.

The Board has indicated that the requisite information is specified on forms provided by the Board which must be completed by the district. The information required meets the definition of "rule" included in the Illinois Administrative Procedure Act, and therefore should be promulgated as such. The Board has refused to modify its rules. The Joint Committee believes that the Board's refusal to modify its rules to include the requisite information leaves it open to the threat of litigation. It is logical for community college districts and community colleges to contend that the Board's requirements contained in its application forms are not enforceable against any person due to the fact that those requirements have not been promulgated as rules. Therefore, the Joint Committee has directed that legislation be drafted requiring the Illinois Community College Board to promulgate as rules the information it requires of community college districts when they apply for approval of new colleges and branches, as well as when they apply to extend courses into non-district territory, and when they apply for approval of new programs.

Summary

Amends the Illinois Public Community College Act (Ill. Rev. Stat. 1983, ch. 122, par. 102-4) to require the Illinois Community College Board to promulgate as rules the information it requires of community college districts when they apply for approval of new colleges and branches, when they apply to extend courses with non-district territory, and when they apply for approval of new programs. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 122, par. 102-4)

Amends the Public Community College Act to require the State Board to promulgate as rules the information it requires of community college districts when they apply for approval of new colleges and branches, when they apply to extend courses into non-district territory, and when they apply for approval of new programs. Effective immediately.

LRB8407891THjs

A BILL FOR

1 AN ACT to amend Section 2-4 of the "Public Community 55
2 College Act", approved July 15, 1965, as amended. 57

3 Be it enacted by the People of the State of Illinois, 61
4 represented in the General Assembly:

5 Section 1. Section 2-4 of the "Public Community College 63
6 Act", approved July 15, 1965, as amended, is amended to read 64
7 as follows:

 (Ch. 122, par. 102-4) 66

8 Sec. 2-4. The State Board shall have the power to make 68
9 and provide rules and regulations not inconsistent with the 69
10 provisions of this Act ~~for the proper administration of this~~ 70
11 Act. The rules shall include, but shall not be limited to: 71
12 (a) the information which the State Board requires of 72
13 community college districts when applying for approval of new
14 colleges and branches, including (i) the name, district 73
15 number, and college number of the college applying for 74
16 approval of a new branch, (ii) the name, location, and 75
17 address of the proposed branch, and (iii) the proposed date
18 of implementation of the application; (b) the information 76
19 which the State Board requires of community college districts 77
20 when applying for approval to extend courses into 78
21 non-district territory, including (i) the name, district 79
22 number, and college number of the college submitting the
23 application to the State Board, (ii) each location to which 80
24 the college intends to extend existing courses, (iii) the 81
25 course prefix, number and title, the term the course is to be 82
26 offered, and the expected midterm enrollment for each course, 83
27 (iv) the name of the organization or group requesting the 84
28 course extension, and (v) a description of financial support
29 for the extension of courses; and (c) the information which 85
30 the State Board requires of community college districts when 86
31 applying for approval of new programs, including (i) the 87
32 community college district name and number, (ii) the name, 88

1	<u>location, and address of the proposed college, and (iii) the</u>	88
2	<u>proposed date of implementation of the application. The</u>	89
3	<u>State Board may not require information other than that</u>	90
4	<u>specified in the rules. Such rules and regulations and</u>	91
5	<u>changes therein shall be filed and shall become effective as</u>	92
6	<u>provided by "The Illinois Administrative Procedure Act",</u>	
7	<u>approved September 22, 1975 "An Act concerning administrative</u>	93
8	<u>rules," approved June 14, 1951, as now or hereafter amended.</u>	94
9	Section 2. This Act takes effect upon becoming law.	96

Background

The Joint Committee on Administrative Rules issued two objections to the Department of Public Aid's rules entitled "Medical Payment, Clients with Exceptional Nursing Care Needs" (89 Ill. Adm. Code 140.569) based upon a lack of statutory authority on the part of the Department.

The first objection cites the Department's lack of authority to impose upon group care facilities, as a precondition for the receipt of a special rate of payment for services provided to clients with exceptional nursing care needs, physical requirements and requirements as to the qualifications of personnel. The General Assembly has specifically delegated the authority to determine minimum standards for patient or client care in, and, licensure of, nursing home facilities to the Illinois Department of Public Health. The Department of Public Health's "Minimum Standards for Licensure of Skilled Nursing and Intermediate Care Facilities" include rules concerning the staffing, emergency procedures, and necessary equipment in skilled nursing care facilities.

The Department also lacks the authority to review whether a nursing home facility has met the licensure and certification standards for skilled nursing care and exceptional skilled nursing care of the Department of Public Health. The Public Aid Code does not authorize the Department of Public Aid to delineate the physical plant and staffing requirements of a nursing home facility. The General Assembly has specifically delegated the authority to determine the minimum standards for patient or client care in, and the licensure of, nursing home facilities to the Department of Public Health.

For these reasons, the Joint Committee has directed that the Public Aid Code be amended to clarify that all skilled nursing care facilities receiving payment for exceptional care needs must meet the licensure and certification requirements as may be established by the Department of Public Health. This proposal also clarifies that the Department of Public Aid may only make payments for exceptional care to those nursing facilities which meet all of the Department of Public Health's requirements.

Summary

Amends Section 5-5.8a of the Public Aid Code (P.A. 84-922, effective January 1, 1986) to require skilled nursing facilities receiving payment for exceptional care needs to meet licensure and certification requirements as well as any other special conditions for providing such care as may be established by the Department of Public Health. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 23, par. 5-5.8a)

Amends The Illinois Public Aid Code. Specifies only the Department of Public Health is responsible for determining whether licensure and certification requirements for skilled nursing care facilities have been met. Provides the Department of Public Aid may make exceptional medical care payments only to skilled nursing facilities which meet the Department of Public Health's licensure and certification requirements and any other special conditions imposed by the Department of Public Health for the provision of exceptional medical care. Effective immediately.

LRB8407890CMtc

A BILL FOR

1 AN ACT to amend Section 5-5.8a of "The Illinois Public 52
2 Aid Code", approved April 11, 1967, as amended. 54

3 Be it enacted by the People of the State of Illinois, 58
4 represented in the General Assembly:

5 Section 1. Section 5-5.8a of "The Illinois Public Aid 60
6 Code", approved April 11, 1967, as amended, is amended to 61
7 read as follows:

 (Ch. 23, par. 5-5.8a) 63

8 Sec. 5-5.8a. Payment for Exceptional Care. For the 65
9 provision of exceptional medical care, the Illinois 66
10 Department of Public Aid may make payments only to individual 67
11 skilled nursing facilities which meet such licensure and 68
12 certification requirements, and other special conditions for 69
13 providing such care, as may be prescribed by the Department 70
14 of Public Health for the--provision--of--exceptional--medical 71
15 care. Only the Department of Public Health shall be 72
16 responsible for determining whether licensure and 73
17 certification requirements for skilled nursing care
18 facilities have been met. The rate of payment shall be 75
19 negotiated with the facilities offering to provide the
20 exceptional medical care. A facility's costs of providing 76
21 exceptional care shall not be considered in determining the 77
22 rate of payment to skilled nursing facilities pursuant to 78
23 Sections 5-5.3 through 5-5.5. Payment for exceptional 79
24 medical care shall not exceed the rate which the Illinois 80
25 Department would be required to pay under the Medical 81
26 Assistance Program for the same care in a hospital. 82
27 Section 2. This Act takes effect upon its becoming a law. 84

Background

During its review of the Department of Registration and Education's rules governing the Pharmacy Practice Act (68 Ill. Adm. Code 330), the Joint Committee on Administrative Rules discovered that the rules exceeded the Department's statutory authority in two respects. First, the rules prohibited the transfer of prescriptions between pharmacies more than one time, even if the the prescription was refillable. Second, the rules required that a pharmacy licensed in more than one division (retail, institutional, etc.) designate a different pharmacist-in-charge for each division. The Committee voted to develop legislation amending the Pharmacy Practice Act to require "prescriber authorizations" (allowing the transfer of a prescription beyond the one-time limit per a phone call from the pharmacist to the doctor prescribing the medication) as a method by which prescriptions may be transferred beyond the one transfer limitation.

The legislative proposal also clarifies that a pharmacy licensed in more than one division need not designate a different pharmacist-in-charge for each division. The Department contended that the unique duties and responsibilities associated with each pharmacy division warrants a different pharmacist-in-charge for each division of a pharmacy that is licensed in more than one division. The Department's contention is not supported by the language of the Pharmacy Practice Act which requires each pharmacy to designate a pharmacist-in-charge but does not require a pharmacy licensed in more than one division to designate a different pharmacist-in-charge for each division. The Joint Committee believes that had the legislature intended for each division to have a pharmacist-in-charge, that requirement would have been included in the enacting language creating the pharmacy division.

Summary

Amends Sections 8 and 10 of the Pharmacy Practice Act (Ill. Rev. Stat. 1983, ch. 111, par. 4028 and 4031) to clarify that pharmacies licensed in more than one division need not designate a different pharmacist-in-charge for each division. In addition, the Act is being amended to require "prescriber authorizations" (allowing for the transfer of a prescription beyond the one-time limit per a phone call from the pharmacist to the prescriber) as a method by which prescriptions may be transferred beyond the established one transfer limitation currently imposed. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 111, pars. 4028 and 4031)

Amends the Pharmacy Practice Act. Specifies a prescription may be transferred only once between pharmacies, but provides additional transfers may be made at the request of the patient through a "prescriber authorization." Further specifies a registered pharmacy may be licensed in more than one division, but shall have only one pharmacist in charge to oversee all divisions. Effective immediately.

LRB8407892CMtc

A BILL FOR

1 AN ACT to amend Sections 8 and 10 of the "Pharmacy 50
2 Practice Act", approved July 11, 1955, as amended. 52

3 Be it enacted by the People of the State of Illinois, 56
4 represented in the General Assembly:

5 Section 1. Sections 8 and 10 of the "Pharmacy Practice 58
6 Act", approved July 11, 1955, as amended, are amended to read 59
7 as follows:

(Ch. 111, par. 4028) 61

8 Sec. 8. It shall be unlawful for the owner of any 63
9 drugstore, shop or other place in this State, defined in this 64
10 Act as "a pharmacy" or as "a drug store", to operate or 65
11 conduct the same, or to allow the same to be operated or 66
12 conducted, unless:

13 (a) It has a Registered Pharmacist or an Assistant 68
14 Registered Pharmacist, authorized to practice pharmacy in 69
15 this State under the provisions of this Act, on duty whenever 70
16 the pharmacy within the establishment is open to the public;

17 (b) Security provisions for all drugs and devices, as 72
18 determined by the Board, are provided during the absence from 73
19 the Registered Pharmacy of all Registered Pharmacists or 74
20 Assistant Registered Pharmacists. Maintenance of security 75
21 provisions is the responsibility of the Registered Pharmacist
22 in charge; and 76

23 (c) The pharmacy is registered under this Act to do 78
24 business.

25 The Department, upon the recommendation of the Board, 80
26 shall establish divisions of pharmacy licenses by which 81
27 practice is authorized. A Registered Pharmacy may be 82
28 licensed in more than one division, and the Registered 83
29 Pharmacist in charge shall oversee each division. No more
30 than one Pharmacist-in-charge shall be designated per 84
31 pharmacy. The Department shall and provide requirements for 85
32 each division by rule as follows:

1	Division I. Retail licenses for pharmacies which are	87
2	open to, or offer pharmacy services to, the general public.	88
3	Division II. Institutional licenses for pharmacies	90
4	located in hospitals, extended care facilities, sanitariums,	92
5	nursing homes, ambulatory care facilities, schools of	93
6	veterinary medicine and surgery, or any other such	
7	institution or facility which offer pharmacy services only to	95
8	the general public on an "outpatient" basis.	96
9	Division III. Institutional licenses for pharmacies	98
10	located in institutions listed in Division II or pharmacies	100
11	whose entire pharmacy service is offered to such	101
12	institutions, and which offer pharmacy services only to	
13	"inpatients", employees, prescribers and students of the	102
14	institution and which may offer single-time pharmacy services	103
15	to former "inpatients" and emergency room patients at the	104
16	time of discharge, but does not otherwise provide pharmacy	105
17	services to the general public on an "outpatient" basis.	
18	Division IV. Licenses for pharmacies which provide or	107
19	offer for sale radioactive materials.	108
20	The Director may waive the requirement for a pharmacist	110
21	to be on duty at all times for State facilities not treating	111
22	human ailments.	
23	It shall be unlawful for any place of business, which is	113
24	not a Registered Pharmacy or Health Care Facility under this	114
25	Act, to purport to be such or to use in name, title, or sign	115
26	designating, or in connection with that place of business,	116
27	any of the words: "pharmacy", "pharmacist", "apothecary",	
28	"druggist", "drug", "drugs", "medicines", "medicine store",	117
29	"drug sundries", "prescriptions filled", or any list of words	118
30	indicating that drugs are compounded or sold to the lay	119
31	public, or prescriptions are dispensed therein. Each day	
32	during which, or <u>during</u> a part <u>of</u> which, such representation	120
33	is made or appears or such a sign is allowed to remain upon	121
34	or in such a place of business shall constitute a separate	122
35	offense under this Act.	123

(Ch. 111, par. 4031)

	125
1 Sec. 10. Except only in the case of a drug, medicine or	127
2 poison which is lawfully sold or dispensed, at retail, in the	128
3 original and unbroken package of the manufacturer, packer, or	129
4 distributor thereof, and which package bears the original	130
5 label thereon showing the name and address of the	131
6 manufacturer, packer, or distributor thereof, and the name of	
7 the drug, medicine, or poison therein contained, and the	132
8 directions for its use, no person shall sell or dispense, at	133
9 retail, any drug, medicine, or poison, without affixing to	134
10 the box, bottle, vessel, or package containing the same, a	135
11 label bearing the name of the article distinctly shown, and	136
12 the directions for its use, with the name and address of the	
13 drug store or pharmacy wherein the same is sold or dispensed.	137
14 However, in the case of a drug, medicine or poison which is	138
15 sold or dispensed pursuant to a prescription of a licensed	139
16 physician, licensed dentist, licensed veterinarian or other	140
17 licensed allied practitioner, the label affixed to the box,	141
18 bottle, vessel, or package containing the same shall show:	142
19 (a) The name and address of the drug store or pharmacy	
20 wherein the same is sold or dispensed; (b) The name or	143
21 initials of the person, authorized to practice pharmacy under	144
22 the provisions of this Act, selling or dispensing the same,	145
23 (c) the date on which such prescription was filled; (d) the	146
24 name of the patient; (e) the serial number of such	147
25 prescription as filed in the prescription files; (f) the last	148
26 name of the practitioner who prescribed such prescriptions;	149
27 and (g) the directions for use thereof as contained in such	150
28 prescription; and (h) the proprietary name or names or the	151
29 established name or names of the drugs, the dosage and	
30 quantity, except as otherwise authorized by regulation of the	152
31 Department of Registration and Education. <u>A prescription may</u>	153
32 <u>be transferred only once between pharmacies. Additional</u>	154
33 <u>transfers may, at the request of the patient, be made via a</u>	155
34 <u>"prescriber authorization," which shall be accomplished by a</u>	156

1	<u>phone call from the new pharmacist to the prescriber.</u>	157
2	person who sells or dispenses any drug, medicine or poison	158
3	shall sell or dispense such drug, medicine or poison in good	159
4	faith. "Good faith", for purposes of this Section, has the	160
5	meaning ascribed to it in subsection (v) of Section 102 of	
6	this "Illinois Controlled Substances Act", approved August	161
7	16, 1971, as amended.	162
8	Section 2. This Act takes effect upon its becoming a	164
9	law.	

Background

On four occasions in 1985, the Illinois Environmental Protection Agency has adopted rules which authorize specific procedures for measuring emissions of particulate matter from stationary sources, as well as for operating during period of excess emissions, and in each instance the Joint Committee on Administrative Rules questioned the Agency's authority to promulgate such rules in light of the fact that Section 10 of the Environmental Protection Act delegates the authority for such rules to the Pollution Control Board. The Agency responded by stating that Section 4(b) and (h) of the Environmental Protection Act authorize the Agency to administer the permit programs established by the Board, to acquire data and ascertain the amount of discharge from the sources of contaminants, and to require reports on actual or potential violations of the Act and applicable regulations. The Department cited Sections 4 and 39 of the Act as its authority for operating under periods of excess emissions.

The explicit authority to promulgate rules prescribing requirements and standards for procedures for operating during periods of excess emissions and for monitoring contaminant discharges at their sources and the collection, reporting and retention of data resulting from such monitoring is that of the Pollution Control Board as provided in Sections 10(c) and 10(g) of the Act. The general provisions of Section 4 of the Act do not vitiate the Board's duty.

At this time, the Board has promulgated virtually no substantive requirements regarding operation during periods of excess emissions, or for monitoring, testing and reports for contaminants discharges. Through the rulemakings in question, the Agency has established its own substantive requirements, beyond the power granted it by the Act. If the Agency prescribes emission monitoring rules, rather than the Board, the rulemaking will have evaded the special procedural safeguards which Sections 27 and 28 of the Environmental Protection Act impose on Board rulemakings. Of particular importance to these rules is the requirement of Section 27 of the Act that the Board conduct a hearing on the economic impact of the rules and have prepared an economic impact study. The Agency and the Board have effectively bypassed these procedural safeguards by shifting the rulemaking responsibility to the Agency.

Therefore, the Joint Committee has recommended that the Environmental Protection Act be amended to clarify the Environmental Protection Agency's lack of authority to promulgate rules concerning procedures for operating during periods of excess emissions and for monitoring contaminant discharges of samples of air pollution and collection of samples for such monitoring. This proposal stipulates that such rules shall be promulgated exclusively by the Pollution Control Board while voiding the Agency rules currently in effect.

Summary

Amends Section 10 of the Environmental Protection Act (Supp. to III. Rev. Stat. 1984, ch. 111½, par. 1010) to clarify the Environmental Protection Agency's lack of authority to promulgate rules concerning procedures for monitoring contaminant discharges of sources of air pollution and collection of samples for such monitoring. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 111 1/2, par. 1010)

Amends the Environmental Protection Act to declare void certain Agency rules concerning operating during periods of excess emissions, and procedures for monitoring contaminant discharges of stationary sources of air pollution and the collection of samples for such monitoring; vests the power to adopt such rules exclusively in the Pollution Control Board. Effective immediately.

LRB8408150EGch

A BILL FOR

1 AN ACT to amend Section 10 of the "Environmental 50
2 Protection Act", approved June 29, 1970, as amended. 52

3 Be it enacted by the People of the State of Illinois, 56
4 represented in the General Assembly:

5 Section 1.- Section 10 of the "Environmental Protection 59
6 Act", approved June 29, 1970, as amended, is amended to read 60
7 as follows:

 (Ch. 111 1/2, par. 1010) 62

8 Sec. 10. The Board, pursuant to procedures prescribed in 64
9 Title VII of this Act, may adopt regulations to promote the 65
10 purposes of this Title. Without limiting the generality of 66
11 this authority, such regulations may among other things 67
12 prescribe:

13 (a) Ambient air quality standards specifying the maximum 69
14 permissible short-term and long-term concentrations of 70
15 various contaminants in the atmosphere;

16 (b) Emission standards specifying the maximum amounts or 72
17 concentrations of various contaminants that may be discharged 73
18 into the atmosphere;

19 (c) Standards for the issuance of permits for 75
20 construction, installation, or operation of any equipment, 76
21 facility, vehicle, vessel, or aircraft capable of causing or 77
22 contributing to air pollution or designed to prevent air 78
23 pollution. Such standards shall be promulgated exclusively
24 by the Board pursuant to The Illinois Administrative 79
25 Procedure Act, and the Agency is expressly prohibited from 80
26 adopting rules and regulations governing the issuance of 81
27 permits for the operation of a facility capable of causing
28 air pollution;

29 (d) Standards and conditions regarding the sale, offer, 83
30 or use of any fuel, vehicle, or other article determined by 84
31 the Board to constitute an air-pollution hazard; 85

32 (e) Alert and abatement standards relative to 87

1 air-pollution episodes or emergencies constituting an acute 88
2 danger to health or to the environment;

3 (f) Requirements and procedures for the inspection of 90
4 any equipment, facility, vehicle, vessel, or aircraft that 91
5 may cause or contribute to air pollution;

6 (g) Requirements and standards for equipment and 93
7 procedures for monitoring contaminant discharges at their 94
8 sources, the collection of samples, and the collection, 95
9 reporting and retention of data resulting from such
10 monitoring, which shall be promulgated exclusively by the 96
11 Board pursuant to The Illinois Administrative Procedure Act. 97
12 The Agency is expressly prohibited from adopting rules and 98
13 regulations governing procedures for monitoring contaminant 99
14 discharges of sources of air pollution and the collection of
15 samples from such sources. 100

16 The Board shall adopt sulfur dioxide regulations and 102
17 emission standards for existing fuel combustion stationary 103
18 emission sources located in all areas of the State of 104
19 Illinois, except the Chicago, St. Louis (Illinois) and Peoria 105
20 major metropolitan areas, in accordance with the following
21 requirements:

22 (1) Such regulations shall not be more restrictive than 107
23 necessary to attain and maintain the "Primary National 108
24 Ambient Air Quality Standards for Sulfur Dioxide" and within 109
25 a reasonable time attain and maintain the "Secondary National 110
26 Ambient Air Quality Standards for Sulfur Dioxide."

27 (2) Such regulations shall be based upon ambient air 112
28 quality monitoring data insofar as possible, consistent with 113
29 regulations of the United States Environmental Protection 114
30 Agency. To the extent that air quality modeling techniques 115
31 are used for setting standards, such techniques shall be
32 fully described and documented in the record of the Board's 116
33 rulemaking proceeding.

34 (3) Such regulations shall provide a mechanism for the 118
35 establishment of emission standards applicable to a specific 119

1 site as an alternative to a more restrictive general emission 120
2 standard. The Board shall delegate authority to the Agency 121
3 to determine such specific site emission standards, pursuant
4 to regulations adopted by the Board. 122

5 (4) Such regulations and standards shall allow all 124
6 available alternative air quality control methods consistent 125
7 with federal law and regulations.

8 The Board may not adopt any regulation banning the 127
9 burning of landscape waste throughout the State generally. 128
10 The Board may, by regulation, restrict or prohibit the 129
11 burning of landscape waste within any geographical area of 130
12 the State if it determines based on medical and biological 131
13 evidence generally accepted by the scientific community that
14 such burning will produce in the atmosphere of that 132
15 geographical area contaminants in sufficient quantities and 133
16 of such characteristics and duration as to be injurious to 134
17 humans, plant, or animal life, or health.

18 The Board shall not adopt any regulation requiring the 136
19 use of a Phase-II Vapor Recovery System at gasoline 137
20 dispensing facilities until the U.S. Environmental Protection 138
21 Agency has determined that the use of such system is required 139
22 for compliance with the federal Clean Air Act.

23 Sections 260.202, 260.203 and 260.205 of the rules 141
24 adopted by the Environmental Protection Agency entitled 142
25 "Policy for Granting Permission to Operate During Periods of 143
26 Excess Emissions", effective November 15, 1985, and Parts 144
27 263, 277 and 283 of the rules adopted by the Environmental 145
28 Protection Agency entitled "Procedures for Measuring 146
29 Emissions of Particulate Matter from Stationary Sources" (35 147
30 Ill. Adm. Code 263), "Procedures for Measuring Emissions of 147
31 Carbon Monoxide" (35 Ill. Adm. Code 277), and "General 148
32 Procedures for Stack Testing" (35 Ill. Adm. Code 283), 149
33 effective September 13, 1985, shall be void as of the
34 effective date of this amendatory Act of 1986. 150

35 Section 2. This Act shall take effect upon becoming law. 152

Background

The Joint Committee on Administrative Rules objected to the Environmental Protection Agency's rules entitled "Design, Operation and Maintenance Criteria" (35 Ill. Adm. Code 653) because the Environmental Protection Act does not provide the Agency with the statutory authority to require that cross-connection control devices be inspected by a person approved by the Agency, nor does it give the Agency the authority to grant approval to persons to inspect cross-connection control devices. Cross-connection control programs ensure the protection of community water supplies and the consumers. In addition, the Joint Committee directed staff to draft legislation clarifying that the procedures for ensuring safe cross-connections shall be promulgated exclusively by the Pollution Control Board. The Environmental Protection Agency is expressly prohibited from adopting cross-connector rules and regulations. This proposal repeals the Agency's rules entitled "Design, Operation and Maintenance Criteria" Parts 653.801 - 653.805, and directs the Pollution Control Board to promulgate such rules.

Summary

Amends Section 17 of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111½, par. 1017) to clarify the Environmental Protection Agency's lack of statutory authority to promulgate rules concerning procedures for the inspection by the Agency of cross-connection control devices by a person approved by the Agency. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 111 1/2, par. 1017)

Amends the Environmental Protection Act to declare void the Agency's rules concerning procedures for the inspection of cross-connection control devices in community public water supplies; vests authority to make such rules in the Pollution Control Board. Effective immediately.

LRB6407893EGch

A BILL FOR

1 AN ACT to amend Section 17 of the "Environmental 49
2 Protection Act", approved June 29, 1970, as amended. 51

3 Be it enacted by the People of the State of Illinois, 55
4 represented in the General Assembly:

5 Section 1. Section 17 of the "Environmental Protection 57
6 Act", approved June 29, 1970, as amended, is amended to read 58
7 as follows:

(Ch. 111 1/2, par. 1017) 60

8 Sec. 17. (a) The Board may adopt regulations governing 63
9 the location, design, construction, and continuous operation 64
10 and maintenance of public water supply installations, changes 65
11 or additions which may affect the continuous sanitary 66
12 quality, mineral quality, or adequacy of the public water
13 supply, pursuant to Title VII of this Act. Such regulations 68
14 shall include, but not be limited to, the approval, use and 69
15 inspection of cross-connection control devices as part of the
16 routine operation of community public water supplies. These 70
17 regulations shall be promulgated exclusively by the Board 71
18 pursuant to The Illinois Administrative Procedure Act. The 72
19 Agency is expressly prohibited from adopting rules and 73
20 regulations governing procedures for approval, use and 74
21 inspection of cross-connection control devices.

22 (b) The Agency shall exempt from any mandatory 76
23 chlorination requirement of the Board any community water 77
24 supply which meets all of the following conditions:

25 (1) The population of the community served is not more 79
26 than 5,000;

27 (2) Has as its only source of raw water one or more 81
28 properly constructed wells into confined geologic formations 82
29 not subject to contamination;

30 (3) Has no history of persistent or recurring 84
31 contamination, as indicated by sampling results which show 85
32 violations of finished water quality requirements, for the 86

1	most recent five-year period;	86
2	(4) Does not provide any raw water treatment other than	88
3	fluoridation;	
4	(5) Has an active program approved by the Agency to	90
5	educate water supply consumers on preventing the entry of	91
6	contaminants into the water system;	
7	(6) Has a certified operator of the proper class, or if	93
8	it is an exempt community public water supply, has a	94
9	registered person responsible in charge of operation of the	96
10	public water supply;	
11	(7) Submits samples for microbiological analysis at	98
12	twice the frequency specified in the Board regulations; and	99
13	(8) A unit of local government seeking to exempt its	101
14	public water supply from the chlorination requirement under	102
15	this subsection (b) on or after the effective date of this	103
16	amendatory Act of 1983 shall be required to receive the	104
17	approval of the voters of such local government. The	
18	proposition to exempt the community water supply from the	105
19	mandatory chlorination requirement shall be placed on the	106
20	ballot if the governing body of the local government adopts	107
21	an ordinance or resolution directing the clerk of the local	
22	government to place such question on the ballot. The clerk	108
23	shall cause the election officials to place the proposition	109
24	on the ballot at the next election at which such proposition	110
25	may be voted upon if a certified copy of the adopted	111
26	ordinance or resolution is filed in his office at least 90	
27	days before such election. The proposition shall also be	112
28	placed on the ballot if a petition containing the signatures	113
29	of at least 10% of the eligible voters residing in the local	
30	government is filed with the clerk at least 90 days before	114
31	the next election at which the proposition may be voted upon.	116
32	The proposition shall be in substantially the following form:	
33	-----	118
34	Shall the community	119
35	water supply of (specify YES	120

1	the unit of local government)	121
2	be exempt from the mandatory -----	122
3	chlorination requirement NO	123
4	of the State of Illinois?	124
5	-----	125
6	If the majority of the voters of the local government	127
7	voting therein vote in favor of the proposition, the	128
8	community water supply of that local government shall be	129
9	exempt from the mandatory chlorination requirement, provided	130
10	that the other requirements under this subsection (b) are	
11	met. If the majority of the vote is against such	131
12	proposition, the community water supply may not be exempt	132
13	from the mandatory chlorination requirement.	
14	Agency decisions regarding exemptions under this	134
15	subsection may be appealed to the Board pursuant to the	135
16	provisions of Section 40(a) of this Act.	
17	(c) Any supply showing contamination in its distribution	137
18	system (including finished water storage) may be required to	138
19	chlorinate until the Agency has determined that the source of	139
20	contamination has been removed and all traces of	140
21	contamination in the distribution system have been	
22	eliminated. Standby chlorination equipment may be required	141
23	by the Agency if a supply otherwise exempt from chlorination	142
24	shows frequent or gross episodes of contamination.	
25	<u>(d) Parts 653.801, 653.802, 653.803, 653.804 and 653.805</u>	144
26	<u>of the rules adopted by the Environmental Protection Agency</u>	145
27	<u>entitled "Design, Operation and Maintenance Criteria" (35</u>	146
28	<u>Ill. Adm. Code 653), effective October 23, 1985, shall be</u>	147
29	<u>void as of the effective date of this amendatory Act of 1986.</u>	
30	Section 2. This Act shall take effect upon becoming law.	149

Background

After reviewing the Illinois Industrial Commission's rules (50 Ill. Adm. Code 7020.80) pertaining to the procedure by which an employee may file an emergency petition for medical benefits in situations where the employee was injured and there is a disputed claim, the Joint Committee on Administrative Rules discovered that the Commission lacked the statutory authority to allow such petitions to be amended pursuant to Section 19(b-1) of the Workers' Compensation Act (Ill. Rev. Stat. 1984 Supp., ch. 48, par. 138.19 (b-1)). The Commission's rules provide that an employer may file a challenge to the sufficiency of a Section 19(b-1) petition, and that the petition is found to be insufficient, the arbitrator will allow the petitioner 5 business days to amend the petition. Section 19(b-1) of the Act provides that the arbitrator must rule on an objection to the sufficiency of a petition within 2 working days after hearing the objection.

Requiring such rulings within a short time frame is consistent with the legislative intent of this section, which is to provide an expedited procedure for the filing of emergency medical claims under. In addition, by not allowing the amendment of petitions by the petitioner and by specifically setting forth what must be contained in a petition filed under this Section, the procedure is further expedited. The Joint Committee's objection, the Joint Committee recommended that legislation be developed to specify that the amendment of Section 19(b-1) petitions is prohibited and to clarify that all objections to such petitions must be ruled upon by the arbitrator within 2 working days.

Summary

Amends Section 19(b-1) of the Workers Compensation Act (Ill. Rev. Stat. 1984 Supp., ch. 48, par. 138.19(b-1) to clarify the petition procedures by prohibiting the amendment of Section 19(b-1) petitions and emphasizing that all objections to such petitions must be ruled upon by the arbitrator within 2 working days. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 48, pars. 138.19 and 172.54)

Amends the Workers' Compensation and Workers' Occupational Diseases Acts. Provides petitions for emergency hearings, once filed with the Industrial Commission, may not be amended. Effective immediately.

LRB8407703CMtc

A BILL FOR

1 AN ACT to amend the law concerning work-related injuries, 47
 2 diseases and disabilities. 48

3 Be it enacted by the People of the State of Illinois, 52
 4 represented in the General Assembly:

5 Section 1. Section 19 of the "Workers' Compensation 54
 6 Act", approved July 9, 1951, as amended, is amended to read 55
 7 as follows:

(Ch. 48, par. 138.19) 57

8 Sec. 19. Any disputed questions of law or fact shall be 59
 9 determined as herein provided. 60

10 (a) It shall be the duty of the Commission upon 62
 11 notification that the parties have failed to reach an 63
 12 agreement, to designate an Arbitrator.

13 1. Whenever any claimant misconceives his remedy and 65
 14 files an application for adjustment of claim under this Act 66
 15 and it is subsequently discovered, at any time before final 67
 16 disposition of such cause, that the claim for disability or 68
 17 death which was the basis for such application should 69
 18 properly have been made under the Workers' Occupational 70
 19 Diseases Act, then the provisions of Section 19, paragraph 71
 20 (a-1) of the Workers' Occupational Diseases Act having
 21 reference to such application shall apply. 72

22 2. Whenever any claimant misconceives his remedy and 74
 23 files an application for adjustment of claim under the 75
 24 Workers' Occupational Diseases Act and it is subsequently 76
 25 discovered, at any time before final disposition of such 77
 26 cause that the claim for injury or death which was the basis 78
 27 for such application should properly have been made under
 28 this Act, then the application so filed under the Workers' 79
 29 Occupational Diseases Act may be amended in form, substance 80
 30 or both to assert claim for such disability or death under 81
 31 this Act and it shall be deemed to have been so filed as 82
 32 amended on the date of the original filing thereof, and such 83

1 compensation may be awarded as is warranted by the whole 84
2 evidence pursuant to this Act. When such amendment is
3 submitted, further or additional evidence may be heard by the 85
4 Arbitrator or Commission when deemed necessary. Nothing in 86
5 this Section contained shall be construed to be or permit a 87
6 waiver of any provisions of this Act with reference to notice 88
7 but notice if given shall be deemed to be a notice under the 89
8 provisions of this Act if given within the time required 90
9 herein.

10 (b) The Arbitrator shall make such inquiries and 93
11 investigations as he or they shall deem necessary and may 94
12 examine and inspect all books, papers, records, places, or
13 premises relating to the questions in dispute and hear such 95
14 proper evidence as the parties may submit. 96

15 The hearings before the Arbitrator shall be held in the 99
16 vicinity where the injury occurred after 10 days' notice of 100
17 the time and place of such hearing shall have been given to
18 each of the parties or their attorneys of record. 101

19 The Arbitrator may find that the disabling condition is 104
20 temporary and has not yet reached a permanent condition and 105
21 may order the payment of compensation up to the date of the 106
22 hearing, which award shall be reviewable and enforceable in
23 the same manner as other awards, and in no instance be a bar 107
24 to a further hearing and determination of a further amount of 108
25 temporary total compensation or of compensation for permanent 109
26 disability, but shall be conclusive as to all other questions 110
27 except the nature and extent of said disability.

28 The decision of the Arbitrator shall be filed with the 113
29 Commission which Commission shall immediately send to each 114
30 party or his attorney a copy of such decision, together with
31 a notification of the time when it was filed. Beginning 115
32 January 1, 1981, all decisions of the Arbitrator shall set 116
33 forth in writing findings of fact and conclusions of law, 117
34 separately stated. Unless a petition for review is filed by 119
35 either party within 15 days after the receipt by such party 120

1 of the copy of the decision and notification of time when 120
2 filed, and unless such party petitioning for a review shall 121
3 within 20 days after the receipt by him of the copy of the 122
4 decision, file with the Commission either an agreed statement 123
5 of the facts appearing upon the hearing before the 124
6 Arbitrator, or if such party shall so elect a correct 125
7 transcript of evidence of the proceedings at such hearings, 126
8 then the decision shall become the decision of the Commission 127
9 and in the absence of fraud shall be conclusive. The 128
10 Commission, or any member thereof, may grant further time not 129
11 exceeding 30 days, in which to file such agreed statement or 129
12 transcript of evidence. Such agreed statement of facts or 130
13 correct transcript of evidence, as the case may be, shall be 131
14 authenticated by the signatures of the parties or their 132
15 attorneys, and in the event they do not agree as to the 133
16 correctness of the transcript of evidence it shall be
17 authenticated by the signature of the Arbitrator designated 134
18 by the Commission.

19 (b-1) If the employee is not receiving medical, surgical 137
20 or hospital services as provided in paragraph (a) of Section 138
21 8 or compensation as provided in paragraph (b) of Section 8,
22 the employee, in accordance with Commission Rules, may file a 139
23 petition for an emergency hearing by an Arbitrator on the 140
24 issue of whether or not he is entitled to receive payment of 141
25 such compensation or services as provided therein. Such 142
26 petition shall have priority over all other petitions and, 143
27 once filed, may at no time be amended by the petitioner. The 144
28 petition shall be heard by the Arbitrator and Commission with 145
29 all convenient speed.

30 Such petition shall contain the following information and 147
31 shall be served on the employer at least 15 days before it is 148
32 filed:

33 (i) the date and approximate time of accident; 150
34 (ii) the approximate location of the accident; 152
35 (iii) a description of the accident; 154

1	(iv) the nature of the injury incurred by the employee;	156
2	(v) the identity of the person, if known, to whom the	158
3	accident was reported and the date on which it was reported;	159
4	(vi) the name and title of the person, if known,	161
5	representing the employer with whom the employee conferred in	162
6	any effort to obtain compensation pursuant to paragraph (b)	163
7	of Section 8 of this Act or medical, surgical or hospital	164
8	services pursuant to paragraph (a) of Section 8 of this Act	165
9	and the date of such conference;	
10	(vii) a statement that the employer has refused to pay	167
11	compensation pursuant to paragraph (b) of Section 8 of this	168
12	Act or for medical, surgical or hospital services pursuant to	169
13	paragraph (a) of Section 8 of this Act;	
14	(viii) the name and address, if known, of each witness	171
15	to the accident and of each other person upon whom the	172
16	employee will rely to support his allegations;	173
17	(ix) the dates of treatment related to the accident by	176
18	medical practitioners, and the names and addresses of such	177
19	practitioners, including the dates of treatment related to	178
20	the accident at any hospitals and the names and addresses of	179
21	such hospitals, and a signed authorization permitting the	180
22	employer to examine all medical records of all practitioners	
23	and hospitals named pursuant to this paragraph;	181
24	(x) a copy of a signed report by a medical practitioner,	183
25	relating to the employee's current inability to return to	184
26	work because of the injuries incurred as a result of the	185
27	accident or such other documents or affidavits which show	186
28	that the employee is entitled to receive compensation	
29	pursuant to paragraph (b) of Section 8 of this Act or	187
30	medical, surgical or hospital services pursuant to paragraph	188
31	(a) of Section 8 of this Act. Such reports, documents or	189
32	affidavits shall state, if possible, the history of the	190
33	accident given by the employee, and describe the injury and	
34	medical diagnosis, the medical services for such injury which	191
35	the employee has received and is receiving, the physical	192

1 activities which the employee cannot currently perform as a 193
2 result of any impairment or disability due to such injury, 194
3 and the prognosis for recovery;

4 (xi) complete copies of any reports, records, documents 196
5 and affidavits in the possession of the employee on which the 197
6 employee will rely to support his allegations, provided that 198
7 the employer shall pay the reasonable cost of reproduction 199
8 thereof;

9 (xii) a list of any reports, records, documents and 201
10 affidavits which the employee has demanded by subpoena and on 202
11 which he intends to rely to support his allegations; 203

12 (xiii) a certification signed by the employee or his 205
13 representative that the employer has received the petition 206
14 with the required information 15 days before filing. 207

15 Fifteen days after receipt by the employer of the 209
16 petition with the required information the employee may file 210
17 said petition and required information and shall serve notice 211
18 of the filing upon the employer. The employer may file a 212
19 motion addressed to the sufficiency of the petition. If an 213
20 objection has been filed to the sufficiency of the petition,
21 the arbitrator shall rule on the objection within 2 working 214
22 days. If such an objection is filed, the time for filing the 215
23 final decision of the Commission as provided in this 216
24 paragraph shall be tolled until the arbitrator has determined 217
25 that the petition is sufficient. The petitioner may not 218
26 amend a petition that has been ruled to be insufficient by 219
27 the arbitrator, but may file a new petition pursuant to this 220
28 Section.

29 The employer shall, within 15 days after receipt of the 222
30 notice that such petition is filed, file with the Commission 223
31 and serve on the employee or his representative a written 225
32 response to each claim set forth in the petition, including
33 the legal and factual basis for each disputed allegation and 226
34 the following information: (i) complete copies of any 227
35 reports, records, documents and affidavits in the possession 228

1 of the employer on which the employer intends to rely in 229
2 support of his response, (ii) a list of any reports, records, 230
3 documents and affidavits which the employer has demanded by 231
4 subpoena and on which the employer intends to rely in support 232
5 of his response, (iii) the name and address of each witness 233
6 on whom the employer will rely to support his response, and 234
7 (iv) the names and addresses of any medical practitioners 235
8 selected by the employer pursuant to Section 12 of this Act
9 and the time and place of any examination scheduled to be
10 made pursuant to such Section.

11 Any employer who does not timely file and serve a written 237
12 response without good cause may not introduce any evidence to 238
13 dispute any claim of the employee but may cross examine the 239
14 employee or any witness brought by the employee and otherwise 240
15 be heard.

16 No document or other evidence not previously identified 242
17 by either party with the petition or written response, or by 243
18 any other means before the hearing, may be introduced into 244
19 evidence without good cause. If, at the hearing, material 245
20 information is discovered which was not previously disclosed, 246
21 the Arbitrator may extend the time for closing proof on the 247
22 motion of a party for a reasonable period of time which may
23 be more than 30 days. No evidence may be introduced pursuant 248
24 to this paragraph as to permanent disability. No award may 249
25 be entered for permanent disability pursuant to this 250
26 paragraph. Either party may introduce into evidence the 251
27 testimony taken by deposition of any medical practitioner.

28 The Commission shall adopt rules, regulations and 253
29 procedures whereby the final decision of the Commission is 254
30 filed not later than 90 days from the date the petition for 255
31 review is filed but in no event later than 180 days from the 256
32 date the petition for an emergency hearing is filed with the
33 Industrial Commission.

34 All service required pursuant to this paragraph (b-1) 259
35 must be by personal service or by certified mail and with 260

1 evidence of receipt. In addition for the purposes of this 260
2 paragraph, all service on the employer must be at the 261
3 premises where the accident occurred if the premises are 262
4 owned or operated by the employer. Otherwise service must be 263
5 at the employee's principal place of employment by the
6 employer. If service on the employer is not possible at 264
7 either of the above, then service shall be at the employer's 265
8 principal place of business. After initial service in each 266
9 case, service shall be made on the employer's attorney or 267
10 designated representative.

11 (c) (1) At a reasonable time in advance of and in 269
12 connection with the hearing under Section 19(e) or 19(h), the 270
13 Commission may on its own motion order an impartial physical 271
14 or mental examination of a petitioner whose mental or 272
15 physical condition is in issue, when in the Commission's
16 discretion it appears that such an examination will 273
17 materially aid in the just determination of the case. The 274
18 examination shall be made by a member or members of a panel
19 of physicians chosen for their special qualifications by the 275
20 Illinois State Medical Society. The Commission shall 276
21 establish procedures by which a physician shall be selected 277
22 from such list.

23 (2) Should the Commission at any time during the hearing 279
24 find that compelling considerations make it advisable to have 280
25 an examination and report at that time, the commission may in 281
26 its discretion so order.

27 (3) A copy of the report of examination shall be given 283
28 to the Commission and to the attorneys for the parties. 284

29 (4) Either party or the Commission may call the 286
30 examining physician or physicians to testify. Any physician 287
31 so called shall be subject to cross-examination.

32 (5) The examination shall be made, and the physician or 289
33 physicians, if called, shall testify, without cost to the 290
34 parties. The Commission shall determine the compensation and 291
35 the pay of the physician or physicians. The compensation for 292

1 this service shall not exceed the usual and customary amount 292
2 for such service. 293
3 (6) The fees and payment thereof of all attorneys and 295
4 physicians for services authorized by the Commission under 296
5 this Act shall, upon request of either the employer or the 297
6 employee or the beneficiary affected, be subject to the 298
7 review and decision of the Commission.
8 (d) If any employee shall persist in insanitary or 300
9 injurious practices which tend to either imperil or retard 301
10 his recovery or shall refuse to submit to such medical, 302
11 surgical, or hospital treatment as is reasonably essential to 303
12 promote his recovery, the Commission may, in its discretion, 304
13 reduce or suspend the compensation of any such injured 305
14 employee. However, when an employer and employee so agree in 306
15 writing, the foregoing provision shall not be construed to 307
16 authorize the reduction or suspension of compensation of an 308
17 employee who is relying in good faith, on treatment by prayer 309
18 or spiritual means alone, in accordance with the tenets and 310
19 practice of a recognized church or religious denomination, by 310
20 a duly accredited practitioner thereof.
21 (e) This paragraph shall apply to all hearings before 312
22 the Commission, including those brought under petitions for 313
23 emergency hearings as provided in paragraph (b-1), except to 314
24 the extent the limitations of time and the taking of 315
25 additional evidence set forth in paragraph (b-1) are 316
26 inconsistent with the provisions of this paragraph. If a 317
27 petition for review and agreed statement of facts or 318
28 transcript of evidence is filed, as provided herein, the 319
29 Commission shall promptly review the decision of the 320
30 Arbitrator and all questions of law or fact which appear from 321
31 the statement of facts or transcript of evidence. Additional 322
32 evidence may be adduced where such evidence (1) relates to 323
33 the condition of the employee since the time of the 324
34 arbitration hearing, (2) relates to matters that occurred or
35 conditions that developed after the arbitration hearing, or

1 (3) was, for good cause, not introduced at the arbitration 325
2 hearing. In reviewing decisions of an arbitrator the 326
3 Commission shall award such temporary compensation, permanent 327
4 compensation and other payments as are due under this Act. 328
5 After such hearing upon review, the Commission shall file in 329
6 its office its decision thereon, and shall immediately send 330
7 to each party or his attorney a copy of such decision and a 331
8 notification of the time when it was filed. After January 1, 332
9 1986, decisions shall be filed within 60 days after a hearing 333
10 on review or oral argument whichever is later.

11 Such review and hearing may be held in its office or 335
12 elsewhere as the Commission may deem advisable. The taking 336
13 of testimony on such hearing may be had before any member of 337
14 the Commission. In the event either party requests oral 338
15 argument, such argument shall be had before a panel of three 339
16 members of the Commission (or before all available members 340
17 pursuant to the determination of 5 members of the Commission 341
18 that such argument be held before all available members of 342
19 the Commission) pursuant to the rules and regulations of the 343
20 Commission. A panel of three members, which shall be 344
21 comprised of not more than one representative citizen of the 345
22 employing class and not more than one representative citizen 346
23 of the employee class, shall hear the argument; provided that 347
24 if all the issues in dispute are solely the nature and extent 348
25 of the permanent partial disability, if any, a majority of 349
26 the panel may deny the request for such argument and such 350
27 argument shall not be held; and provided further that 5
28 members of the Commission may determine that the argument be 351
29 held before all available members of the Commission. 353
30 Notwithstanding any other provisions of this Section, the 354
31 Chairman may not regularly serve on any panel of 3 members of
32 the Commission as described in this Section, but may 355
33 substitute for any member who is unavailable. A decision of 356
34 the Commission shall be approved by a majority of 357
35 Commissioners present at such hearing if any; provided, if no

1 such hearing is held, a decision of the Commission shall be 358
2 approved by a majority of a panel of 3 members of the 359
3 Commission as described in this Section. The Commission 360
4 shall give 10 days' notice to the parties or their attorneys 361
5 of the time and place of such taking of testimony and of such 362
6 argument.

7 In any case the Commission in its decision may find 364
8 specially upon any question or questions of law or fact which 365
9 shall be submitted in writing by either party whether 366
10 ultimate or otherwise; provided that on issues other than 367
11 nature and extent of the disability, if any, the Commission 368
12 in its decision shall find specially upon any question or 369
13 questions of law or fact, whether ultimate or otherwise, 370
14 which are submitted in writing by either party; provided
15 further that not more than 5 such questions may be submitted 371
16 by either party. Any party may, within 20 days after receipt 372
17 of notice of the Commission's decision, or within such 373
18 further time, not exceeding 30 days, as the Commission may 374
19 grant, file with the Commission either an agreed statement of 375
20 the facts appearing upon the hearing, or, if such party shall 376
21 so elect, a correct transcript of evidence of the additional
22 proceedings presented before the Commission, in which report 377
23 the party may embody a correct statement of such other 378
24 proceedings in the case as such party may desire to have 379
25 reviewed, such statement of facts or transcript of evidence 380
26 to be authenticated by the signature of the parties or their 381
27 attorneys, and in the event that they do not agree, then the 382
28 authentication of such transcript of evidence shall be by the
29 signature of any member of the Commission. 383

30 If a reporter does not for any reason furnish a 385
31 transcript of the proceedings before the Arbitrator in any 386
32 case for use on a hearing for review before the Commission, 387
33 within the limitations of time as fixed in this Section, the 388
34 Commission may, in its discretion, order a trial de novo 389
35 before the Commission in such case upon application of either

1 party. The applications for adjustment of claim and other 390
2 documents in the nature of pleadings filed by either party, 391
3 together with the decisions of the Arbitrator and of the 392
4 Commission and the statement of facts or transcript of 393
5 evidence hereinbefore provided for in paragraphs (b) and (c) 394
6 shall be the record of the proceedings of the Commission, and 395
7 shall be subject to review as hereinafter provided.

8 At the request of either party or on its own motion, the 397
9 Commission shall set forth in writing the reasons for the 398
10 decision, including findings of fact and conclusions of law 399
11 separately stated. The Commission shall by rule adopt a 400
12 format for written decisions for the Commission and 401
13 arbitrators. The written decisions shall be concise and shall 402
14 succinctly state the facts and reasons for the decision. The 403
15 Commission may adopt in whole or in part, the decision of the 404
16 arbitrator as the decision of the Commission. When the 405
17 Commission does so adopt the decision of the arbitrator, it 406
18 shall do so by order. Whenever the Commission adopts part of 407
19 the arbitrator's decision, but not all, it shall include in 408
20 the order the reasons for not adopting all of the 409
21 arbitrator's decision. When a majority of a panel, after 410
22 deliberation, has arrived at its decision, the decision shall 411
23 be filed as provided in this Section without unnecessary 412
24 delay, and without regard to the fact that a member of the 413
25 panel has expressed an intention to dissent. Any member of 414
26 the panel may file a dissent. Any dissent shall be filed no 415
27 later than 10 days after the decision of the majority has 416
28 been filed.

29 Decisions rendered by the Commission and dissents, if 416
30 any, shall be published together by the Commission. The 417
31 conclusions of law set out in such decisions shall be 418
32 regarded as precedents by arbitrators for the purpose of 420
33 achieving a more uniform administration of this Act.

34 (f) The decision of the Commission acting within its 422
35 powers, according to the provisions of paragraph (e) of this 423

1 Section shall, in the absence of fraud, be conclusive unless 424
2 reviewed as in this paragraph hereinafter provided. However, 425
3 the Arbitrator or the Commission may on his or its own 426
4 motion, or on the motion of either party, correct any 427
5 clerical error or errors in computation within 15 days after
6 the date of receipt of any award by such Arbitrator or any 428
7 decision on review of the Commission and shall have the power 429
8 to recall the original award on arbitration or decision on 430
9 review, and issue in lieu thereof such corrected award or 431
10 decision. Where such correction is made the time for review 432
11 herein specified shall begin to run from the date of the 433
12 receipt of the corrected award or decision.

13 (1) Except in cases of claims against the State of 435
14 Illinois, in which case the decision of the Commission shall 436
15 not be subject to judicial review, the Circuit Court of the 437
16 county where any of the parties defendant may be found, or if 438
17 none of the parties defendant can be found in this State then 439
18 the Circuit Court of the county where the accident occurred, 440
19 shall by summons to the Commission have power to review all 441
20 questions of law and fact presented by such record.

21 A proceeding for review shall be commenced within 20 days 441
22 of the receipt of notice of the decision of the Commission. 444
23 The summons shall be issued by the clerk of such court upon 445
24 written request returnable on a designated return day, not 446
25 less than 10 or more than 60 days from the date of issuance 447
26 thereof, and the written request shall contain the last known 448
27 address of other parties in interest and their attorneys of 449
28 record who are to be served by summons. Service upon any 450
29 member of the Commission or the Secretary or the Assistant 451
30 Secretary thereof shall be service upon the Commission, and 452
31 service upon other parties in interest and their attorneys of
32 record shall be by summons, and such service shall be made 453
33 upon the Commission and other parties in interest by mailing 454
34 notices of the commencement of the proceedings and the return 455
35 day of the summons to the office of the Commission and to the 456

1 last known place of residence of other parties in interest or 457
2 their attorney or attorneys of record. The clerk of the 458
3 court issuing the summons shall on the day of issue mail 459
4 notice of the commencement of the proceedings which shall be 460
5 done by mailing a copy of the summons to the office of the 461
6 Commission, and a copy of the summons to the other parties in 462
7 interest or their attorney or attorneys of record and the 463
8 clerk of the court shall make certificate that he has so sent 464
9 said notices in pursuance of this Section, which shall be 465
10 evidence of service on the Commission and other parties in 466
11 interest.

12 The Commission shall not be required to certify the 468
13 record of their proceedings to the Circuit Court, unless the 469
14 party commencing the proceedings for review in the Circuit 470
15 Court as above provided, shall pay to the Commission the sum 471
16 of 80¢ per page of testimony taken before the Commission, and 472
17 35¢ per page of all other matters contained in such record, 473
18 except as otherwise provided by Section 20 of this Act.
19 Payment for photostatic copies of exhibit shall be extra. It 474
20 shall be the duty of the Commission upon such payment, or 475
21 failure to pay as permitted under Section 20 of this Act, to 476
22 prepare a true and correct typewritten copy of such testimony 477
23 and a true and correct copy of all other matters contained in 478
24 such record and certified to by the Secretary or Assistant 479
25 Secretary thereof.

26 In its decision on review the Commission shall determine 481
27 in each particular case the amount of the probable cost of 482
28 the record to be filed as a part of the summons in that case 483
29 and no request for a summons may be filed and no summons 484
30 shall issue unless the party seeking to review the decision 485
31 of the Commission shall exhibit to the clerk of the Circuit 486
32 Court proof of payment by filing a receipt showing payment or 487
33 an affidavit of the attorney setting forth that payment has 488
34 been made of the sums so determined to the Secretary or 489
35 Assistant Secretary of the Commission, except as otherwise 490

1 provided by Section 20 of this Act. 491

2 (2) No such summons shall issue unless the one against 493

3 whom the Commission shall have rendered an award for the 494

4 payment of money shall upon the filing of his written request 495

5 for such summons file with the clerk of the court a bond 496

6 conditioned that if he shall not successfully prosecute the 497

7 review, he will pay the award and the costs of the 498

8 proceedings in the courts. The amount of the bond shall be

9 fixed by any member of the Commission and the surety or 499

10 sureties of the bond shall be approved by the clerk of the 500

11 court. The acceptance of the bond by the clerk of the court 501

12 shall constitute evidence of his approval of the bond.

13 Every county, city, town, township, incorporated village, 503

14 school district, body politic or municipal corporation 504

15 against whom the Commission shall have rendered an award for 505

16 the payment of money shall not be required to file a bond to 506

17 secure the payment of the award and the costs of the 507

18 proceedings in the court to authorize the court to issue such 508

19 summons.

20 The court may confirm or set aside the decision of the 510

21 Commission. If the decision is set aside and the facts found 511

22 in the proceedings before the Commission are sufficient, the 512

23 court may enter such decision as is justified by law, or may 513

24 remand the cause to the Commission for further proceedings 514

25 and may state the questions requiring further hearing, and 515

26 give such other instructions as may be proper. Appeals shall

27 be taken to the Supreme Court in accordance with Supreme 516

28 Court Rule 302 (a).

29 It shall be the duty of the clerk of any court rendering 518

30 a decision affecting or affirming an award of the Commission 519

31 to promptly furnish the Commission with a copy of such 520

32 decision, without charge.

33 The decision of a majority of the members of the panel of 522

34 the Commission, shall be considered the decision of the 523

35 Commission.

1 (g) Except in the case of a claim against the State of 525
2 Illinois, either party may present a certified copy of the 526
3 award of the Arbitrator, or a certified copy of the decision 527
4 of the Commission when the same has become final, when no 528
5 proceedings for review are pending, providing for the payment 529
6 of compensation according to this Act, to the Circuit Court 530
7 of the county in which such accident occurred or either of 531
8 the parties are residents, whereupon the court shall enter a 532
9 judgment in accordance therewith. In a case where the 533
10 employer refuses to pay compensation according to such final 534
11 award or such final decision upon which such judgment is 535
12 entered the court shall in entering judgment thereon, tax as 536
13 costs against him the reasonable costs and attorney fees in 537
14 the arbitration proceedings and in the court entering the 538
15 judgment for the person in whose favor the judgment is 539
16 entered, which judgment and costs taxed as therein provided 540
17 shall, until and unless set aside, have the same effect as 541
18 though duly entered in an action duly tried and determined by 542
19 the court, and shall with like effect, be entered and 543
20 docketed. The Circuit Court shall have power at any time 544
21 upon application to make any such judgment conform to any 545
22 modification required by any subsequent decision of the 546
23 Supreme Court upon appeal, or as the result of any subsequent 547
24 proceedings for review, as provided in this Act. 548
25 Judgment shall not be entered until 15 days' notice of 549
26 the time and place of the application for the entry of 550
27 judgment shall be served upon the employer by filing such 551
28 notice with the Commission, which Commission shall, in case 552
29 it has on file the address of the employer or the name and 553
30 address of its agent upon whom notices may be served, 554
31 immediately send a copy of the notice to the employer or such 555
32 designated agent. 556
33 (h) An agreement or award under this Act providing for 557
34 compensation in installments, may at any time within 18 558
35 months after such agreement or award be reviewed by the 559

1 Commission at the request of either the employer or the 557
2 employee, on the ground that the disability of the employee 558
3 has subsequently recurred, increased, diminished or ended.

4 However, as to accidents occurring subsequent to July 1, 560
5 1955, which are covered by any agreement or award under this 561
6 Act providing for compensation in installments made as a 562
7 result of such accident, such agreement or award may at any 563
8 time within 30 months after such agreement or award be 564
9 reviewed by the Commission at the request of either the 565
10 employer or the employee on the ground that the disability of
11 the employee has subsequently recurred, increased, diminished 566
12 or ended.

13 On such review, compensation payments may be 568
14 re-established, increased, diminished or ended. The 569
15 Commission shall give 15 days' notice to the parties of the 570
16 hearing for review. Any employee, upon any petition for such 571
17 review being filed by the employer, shall be entitled to 1 572
18 day's notice for each 100 miles necessary to be traveled by
19 him in attending the hearing of the Commission upon the 573
20 petition, and 3 days in addition thereto. Such employee 574
21 shall, at the discretion of the Commission, also be entitled 575
22 to 5 cents per mile necessarily traveled by him within the 576
23 State of Illinois in attending such hearing, not to exceed a 577
24 distance of 300 miles, to be taxed by the Commission as costs
25 and deposited with the petition of the employer. 578

26 When compensation which is payable in accordance with an 580
27 award or settlement contract approved by the Commission, is 581
28 ordered paid in a lump sum by the Commission, no review shall 582
29 be had as in this paragraph mentioned. 583

30 (i) Each party, upon taking any proceedings or steps 585
31 whatsoever before any Arbitrator, Commission or court, shall 587
32 file with the Commission his address, or the name and address
33 of any agent upon whom all notices to be given to such party 588
34 shall be served, either personally or by registered mail, 589
35 addressed to such party or agent at the last address so filed 590

1 with the Commission. In the event such party has not filed 591
2 his address, or the name and address of an agent as above 592
3 provided, service of any notice may be had by filing such 593
4 notice with the Commission.

5 (j) Whenever in any proceeding testimony has been taken 595
6 or a final decision has been rendered and after the taking of 596
7 such testimony or after such decision has become final, the 597
8 injured employee dies, then in any subsequent proceedings 598
9 brought by the personal representative or beneficiaries of 599
10 the deceased employee, such testimony in the former 600
11 proceeding may be introduced with the same force and effect
12 as though the witness having so testified were present in 601
13 person in such subsequent proceedings and such final 602
14 decision, if any, shall be taken as final adjudication of any 603
15 of the issues which are the same in both proceedings. 604

16 (k) In case where there has been any unreasonable or 606
17 vexatious delay of payment or intentional underpayment of 607
18 compensation, or proceedings have been instituted or carried 608
19 on by the one liable to pay the compensation, which do not 609
20 present a real controversy, but are merely frivolous or for 610
21 delay, then the Commission may award compensation additional 611
22 to that otherwise payable under this Act equal to 50% of the
23 amount payable at the time of such award. Failure to pay 612
24 compensation in accordance with the provisions of Section 8, 613
25 paragraph (b) of this Act, shall be considered unreasonable 614
26 delay.

27 (l) In case the employer or his insurance carrier shall 615
28 without good and just cause fail, neglect, refuse or 617
29 unreasonably delay the payment of weekly compensation 618
30 benefits due to an injured employee during the period of 619
31 temporary total disability the arbitrator or the Commission
32 shall allow to the employee additional compensation in the 620
33 sum of \$10 per day for each day that a weekly compensation 621
34 payment has been so withheld or refused, provided that such 622
35 additional compensation shall not exceed the sum of \$2,500. 623

1 A delay in payment of 14 days or more shall create a 624
2 rebuttable presumption of unreasonable delay.

3 (m) If the commission finds that an accidental injury 626
4 was directly and proximately caused by the employer's wilful 627
5 violation of a health and safety standard under the "Health 628
6 and Safety Act", approved March 16, 1936, as now or hereafter 629
7 amended, in force at the time of the accident, the arbitrator 630
8 or the Commission shall allow to the injured employee or his 631
9 dependents, as the case may be, additional compensation equal 632
10 to 25% of the amount which otherwise would be payable under
11 the provisions of this Act exclusive of this paragraph. The 633
12 additional compensation herein provided shall be allowed by 634
13 an appropriate increase in the applicable weekly compensation 635
14 rate.

15 (n) After June 30, 1984, decisions of the Industrial 637
16 Commission reviewing an award of an arbitrator of the 639
17 Commission shall draw interest at a rate equal to the yield
18 on indebtedness issued by the United States Government with a 640
19 26-week maturity next previously auctioned on the day on 641
20 which the decision is filed. Said rate of interest shall be 642
21 set forth in the Arbitrator's Decision. Interest shall be 643
22 drawn from the date of the arbitrator's award on all accrued
23 compensation due the employee through the day prior to the 644
24 date of payments. However, when an employee appeals an award 645
25 of an Arbitrator or the Commission, and the appeal results in 646
26 no change or a decrease in the award, interest shall not 647
27 further accrue from the date of such appeal.

28 The employer or his insurance carrier may tender the 649
29 payments due under the award to stop the further accrual of 650
30 interest on such award notwithstanding the prosecution by 651
31 either party of review, certiorari, appeal to the Supreme 652
32 Court or other steps to reverse, vacate or modify the award.

33 (o) By the 15th day of each month each insurer providing 654
34 coverage for losses under this Act shall notify each insured 655
35 employer of any compensable claim incurred during the 656

1 preceding month and the amounts paid or reserved on the claim 657
2 including a summary of the claim and a brief statement of the 658
3 reasons for compensability. A cumulative report of all 659
4 claims incurred during a calendar year or continued from the 660
5 previous year shall be furnished to the insured employer by 661
6 the insurer within 30 days after the end of that calendar
7 year.

8 The insured employer may challenge, in proceeding before 663
9 the Commission, payments made by the insurer without 664
10 arbitration and payments made after a case is determined to 665
11 be noncompensable. If the Commission finds that the case was 666
12 not compensable, the insurer shall purge its records as to 667
13 that employer of any loss or expense associated with the
14 claim, reimburse the employer for attorneys' fees arising 668
15 from the challenge and for any payment required of the 669
16 employer to the Rate Adjustment Fund or the Second Injury 670
17 Fund, and may not reflect the loss or expense for rate making
18 purposes. The employee shall not be required to refund the 671
19 challenged payment. The decision of the Commission may be 672
20 reviewed in the same manner as in arbitrated cases. No 673
21 challenge may be initiated under this paragraph more than 3 674
22 years after the payment is made. An employer may waive the
23 right of challenge under this paragraph on a case by case 675
24 basis. 676

25 Section 2. Section 19 of the "Workers' Occupational 678
26 Diseases Act", approved July 9, 1951, as amended, is amended 679
27 to read as follows:

(Ch. 48, par. 172.54) 681

28 Sec. 19. Any disputed questions of law or fact shall be 683
29 determined as herein provided. 684

30 (a) It shall be the duty of the Commission upon 686
31 notification that the parties have failed to reach an 687
32 agreement to designate an Arbitrator. 688

33 (1) The application for adjustment of claim filed with 690
34 the Commission shall state: 691

1 A. The approximate date of the last day of the last 693
2 exposure and the approximate date of the disablement. 694
3 B. The general nature and character of the illness or 696
4 disease claimed. 697
5 C. The name and address of the employer by whom employed 699
6 on the last day of the last exposure and if employed by any 700
7 other employer after such last exposure and before 701
8 disablement the name and address of such other employer or 702
9 employers.
10 D. In case of death, the date and place of death. 704
11 E. Amendments to applications for adjustment of claim 706
12 which relate to the same disablement or disablement resulting 707
13 in death originally claimed upon may be allowed by the 708
14 Commissioner or an Arbitrator thereof, in their discretion, 709
15 and in the exercise of such discretion, they may in proper 710
16 cases order a trial de novo; such amendment shall relate back 711
17 to the date of the filing of the original application so 712
18 amended.
19 F. Whenever any claimant misconceives his remedy and 714
20 files an application for adjustment of claim under this Act 715
21 and it is subsequently discovered, at any time before final 716
22 disposition of such cause, that the claim for disability or 717
23 death which was the basis for such application should 718
24 properly have been made under the Workers' Compensation Act, 719
25 then the provisions of Section 19 paragraph (a-1) of the 720
26 Workers' Compensation Act having reference to such 721
27 application shall apply.
28 Whenever any claimant misconceives his remedy and files 723
29 an application for adjustment of claim under the Workers' 724
30 Compensation Act and it is subsequently discovered, at any 725
31 time before final disposition of such cause that the claim 726
32 for injury or death which was the basis for such application 727
33 should properly have been made under this Act, then the 728
34 application so filed under the Workers' Compensation Act may 729
35 be amended in form, substance or both to assert claim for

1 such disability or death under this Act and it shall be 730
2 deemed to have been so filed as amended on the date of the 731
3 original filing thereof, and such compensation may be awarded 732
4 as is warranted by the whole evidence pursuant to the
5 provisions of this Act. When such amendment is submitted, 733
6 further or additional evidence may be heard by the Arbitrator 734
7 or Commission when deemed necessary; provided, that nothing 735
8 in this Section contained shall be construed to be or permit 736
9 a waiver of any provisions of this Act with reference to 737
10 notice, but notice if given shall be deemed to be a notice 738
11 under the provisions of this Act if given within the time
12 required herein. 739

13 (b) The Arbitrator shall make such inquiries and 742
14 investigations as he shall deem necessary and may examine and 743
15 inspect all books, papers, records, places, or premises 744
16 relating to the questions in dispute and hear such proper
17 evidence as the parties may submit. 745

18 The hearings before the Arbitrator shall be held in the 748
19 vicinity where the last exposure occurred, after 10 days' 749
20 notice of the time and place of such hearing shall have been
21 given to each of the parties or their attorneys of record. 750

22 The Arbitrator may find that the disabling condition is 753
23 temporary and has not yet reached a permanent condition and 754
24 may order the payment of compensation up to the date of the 755
25 hearing, which award shall be reviewable and enforceable in
26 the same manner as other awards, and in no instance be a bar 756
27 to a further hearing and determination of a further amount of 757
28 temporary total compensation or of compensation for permanent 758
29 disability, but shall be conclusive as to all other questions 759
30 except the nature and extent of such disability.

31 The decision of the Arbitrator shall be filed with the 762
32 Commission which Commission shall immediately send to each 763
33 party or his attorney a copy of such decision, together with
34 a notification of the time when it was filed. Beginning 764
35 January 1, 1981, all decisions of the Arbitrator shall set 765

1 forth in writing findings of fact and conclusions of law, 766
2 separately stated. Unless a petition for review is filed by 768
3 either party within 15 days after the receipt by such party
4 of the copy of the decision and notification of time when 769
5 filed, and unless such party petitioning for a review shall 770
6 within 20 days after the receipt by him of the copy of the 771
7 decision, file with the Commission either an agreed statement 772
8 of the facts appearing upon the hearing before the 773
9 Arbitrator, or if such party shall so elect a correct 774
10 transcript of evidence of the proceedings at such hearings, 775
11 then the decision shall become the decision of the Commission 776
12 and in the absence of fraud shall be conclusive. The 777
13 Commission, or any member thereof, may grant further time not
14 exceeding 30 days, in which to file such agreed statement or 778
15 transcript of evidence. Such agreed statement of facts or 779
16 correct transcript of evidence, as the case may be, shall be 780
17 authenticated by the signatures of the parties or their 781
18 attorneys, and in the event they do not agree as to the 782
19 correctness of the transcript of evidence it shall be 783
20 authenticated by the signature of the Arbitrator designated
21 by the Commission. 784
22 (b-1) If the employee is not receiving, pursuant to 787
23 Section 7, medical, surgical or hospital services of the type 788
24 provided for in paragraph (a) of Section 8 of the Workers' 789
25 Compensation Act or compensation of the type provided for in 790
26 paragraph (b) of Section 8 of the Workers' Compensation Act,
27 the employee, in accordance with Commission Rules, may file a 791
28 petition for an emergency hearing by an Arbitrator on the 793
29 issue of whether or not he is entitled to receive payment of 794
30 such compensation or services as provided therein. Such 795
31 petition shall have priority over all other petitions and, 796
32 once filed, may at no time be amended by the petitioner. The 797
33 petition shall be heard by the Arbitrator and Commission with 798
34 all convenient speed.
35 Such petition shall contain the following information and 801

1 shall be served on the employer at least 15 days before it is 801
2 filed: .

3 (i) the date and approximate time of the last exposure; 803
4 (ii) the approximate location of the last exposure; 805
5 (iii) a description of the last exposure; 807
6 (iv) the nature of the disability incurred by the 809
7 employee;

8 (v) the identity of the person, if known, to whom the 811
9 disability was reported and the date on which it was 812
10 reported;

11 (vi) the name and title of the person, if known, 814
12 representing the employer with whom the employee conferred in 815
13 any effort to obtain pursuant to Section 7 compensation of 816
14 the type provided for in paragraph (b) of Section 8 of the 817
15 Workers' Compensation Act or medical, surgical or hospital 818
16 services of the type provided for in paragraph (a) of Section
17 8 of the Workers' Compensation Act and the date of such 819
18 conference;

19 (vii) a statement that the employer has refused to pay 821
20 compensation pursuant to Section 7 of the type provided for 822
21 in paragraph (b) of Section 8 of the Workers' Compensation 823
22 Act or for medical, surgical or hospital services pursuant to 824
23 Section 7 of the type provided for in paragraph (a) of 825
24 Section 8 of the Workers' Compensation Act.

25 (viii) the name and address, if known, of each witness 827
26 to the last exposure and of each other person upon whom the 828
27 employee will rely to support his allegations; 829

28 (ix) the dates of treatment related to the disability by 832
29 medical practitioners, and the names and addresses of such 833
30 practitioners, including the dates of treatment related to 834
31 the disability at any hospitals and the names and addresses 835
32 of such hospitals, and a signed authorization permitting the
33 employer to examine all medical records of all practitioners 836
34 and hospitals named pursuant to this paragraph; 837

35 (x) a copy of a signed report by a medical practitioner, 839

1 relating to the employee's current inability to return to 841
2 work because of the disability incurred as a result of the 842
3 exposure or such other documents or affidavits which show 843
4 that the employee is entitled to receive pursuant to Section
5 7 compensation of the type provided for in paragraph (b) of 844
6 Section 8 of the Workers' Compensation Act or medical, 845
7 surgical or hospital services of the type provided for in 847
8 paragraph (a) of Section 8 of the Workers' Compensation Act.
9 Such reports, documents or affidavits shall state, if 848
10 possible, the history of the exposure given by the employee, 849
11 and describe the disability and medical diagnosis, the 850
12 medical services for such disability which the employee has 851
13 received and is receiving, the physical activities which the 853
14 employee cannot currently perform as a result of such 854
15 disability, and the prognosis for recovery;
16 (xi) complete copies of any reports, records, documents 856
17 and affidavits in the possession of the employee on which the 858
18 employee will rely to support his allegations, provided that 859
19 the employer shall pay the reasonable cost of reproduction
20 thereof;
21 (xii) a list of any reports, records, documents and 861
22 affidavits which the employee has demanded by subpoena and on 862
23 which he intends to rely to support his allegations; 863
24 (xiii) a certification signed by the employee or his 865
25 representative that the employer has received the petition 866
26 with the required information 15 days before filing. 867
27 Fifteen days after receipt by the employer of the 369
28 petition with the required information the employee may file 870
29 said petition and required information and shall serve notice 871
30 of the filing upon the employer. The employer may file a 872
31 motion addressed to the sufficiency of the petition. If an 873
32 objection has been filed to the sufficiency of the petition,
33 the arbitrator shall rule on the objection within 2 working 874
34 days. If such an objection is filed, the time for filing the 875
35 final decision of the Commission as provided in this 876

1 paragraph shall be tolled until the arbitrator has determined 877
2 that the petition is sufficient. The petitioner may not 878
3 amend a petition that has been ruled insufficient by the 879
4 arbitrator, but may file a new petition pursuant to this
5 Section.
6 The employer shall, within 15 days after receipt of the 381
7 notice that such petition is filed, file with the Commission 383
8 and serve on the employee or his representative a written 384
9 response to each claim set forth in the petition, including 385
10 the legal and factual basis for each disputed allegation and 386
11 the following information: (i) complete copies of any 387
12 reports, records, documents and affidavits in the possession 388
13 of the employer on which the employer intends to rely in 389
14 support of his response, (ii) a list of any reports, records,
15 documents and affidavits which the employer has demanded by 890
16 subpoena and on which the employer intends to rely in support 891
17 of his response, (iii) the name and address of each witness 892
18 on whom the employer will rely to support his response, and 893
19 (iv) the names and addresses of any medical practitioners 894
20 selected by the employer pursuant to Section 12 of this Act
21 and the time and place of any examination scheduled to be 895
22 made pursuant to such Section.
23 Any employer who does not timely file and serve a written 898
24 response without good cause may not introduce any evidence to 899
25 dispute any claim of the employee but may cross examine the 900
26 employee or any witness brought by the employee and otherwise
27 be heard.
28 No document or other evidence not previously identified 902
29 by either party with the petition or written response, or by 904
30 any other means before the hearing, may be introduced into 905
31 evidence without good cause. If, at the hearing, material 906
32 information is discovered which was not previously disclosed, 907
33 the Arbitrator may extend the time for closing proof on the 908
34 motion of a party for a reasonable period of time which may
35 be more than 30 days. No evidence may be introduced pursuant 910

1 to this paragraph as to permanent disability. No award may 911
2 be entered for permanent disability pursuant to this 912
3 paragraph. Either party may introduce into evidence the 913
4 testimony taken by deposition of any medical practitioner.
5 The Commission shall adopt rules, regulations and 915
6 procedures whereby the final decision of the Commission is 916
7 filed not later than 90 days from the date the petition for 917
8 review is filed but in no event later than 180 days from the 918
9 date the petition for an emergency hearing is filed with the
10 Industrial Commission.
11 All service required pursuant to this paragraph (b-1) 921
12 must be by personal service or by certified mail and with 922
13 evidence of receipt. In addition for the purposes of this
14 paragraph, all service on the employer must be at the 923
15 premises where the accident occurred if the premises are 924
16 owned or operated by the employer. Otherwise service must be 925
17 at the employee's principal place of employment by the
18 employer. If service on the employer is not possible at 926
19 either of the above, then service shall be at the employer's 927
20 principal place of business. After initial service in each 928
21 case, service shall be made on the employer's attorney or 929
22 designated representative.
23 (c) (1) At a reasonable time in advance of and in 931
24 connection with the hearing under Section 19(e) or 19(h), the 932
25 Commission may on its own motion order an impartial physical 933
26 or mental examination of a petitioner whose mental or 934
27 physical condition is in issue, when in the Commission's
28 discretion it appears that such an examination will 935
29 materially aid in the just determination of the case. The 936
30 examination shall be made by a member or members of a panel
31 of physicians chosen for their special qualifications by the 937
32 Illinois State Medical Society. The Commission shall 938
33 establish procedures by which a physician shall be selected 939
34 from such list.
35 (2) Should the Commission at any time during the hearing 941

1 find that compelling considerations make it advisable to have 942
2 an examination and report at that time, the commission may in 943
3 its discretion so order.

4 (3) A copy of the report of examination shall be given 945
5 to the Commission and to the attorneys for the parties. 946

6 (4) Either party or the Commission may call the 948
7 examining physician or physicians to testify. Any physician 949
8 so called shall be subject to cross-examination.

9 (5) The examination shall be made, and the physician or 951
10 physicians, if called, shall testify, without cost to the 952
11 parties. The Commission shall determine the compensation and 953
12 the pay of the physician or physicians. The compensation for 954
13 this service shall not exceed the usual and customary amount
14 for such service. 955

15 The fees and payment thereof of all attorneys and 957
16 physicians for services authorized by the Commission under 958
17 this Act shall, upon request of either the employer or the 959
18 employee or the beneficiary affected, be subject to the 960
19 review and decision of the Commission.

20 (d) If any employee shall persist in insanitary or 962
21 injurious practices which tend to either imperil or retard 963
22 his recovery or shall refuse to submit to such medical, 964
23 surgical, or hospital treatment as is reasonably essential to 965
24 promote his recovery, the Commission may, in its discretion, 966
25 reduce or suspend the compensation of any such employee; 967
26 provided, that when an employer and employee so agree in
27 writing, the foregoing provision shall not be construed to 968
28 authorize the reduction or suspension of compensation of an 969
29 employee who is relying in good faith, on treatment by prayer 970
30 or spiritual means alone, in accordance with the tenets and 971
31 practice of a recognized church or religious denomination, by
32 a duly accredited practitioner thereof. 972

33 (e) This paragraph shall apply to all hearings before 975
34 the Commission, including those brought under petitions for 976
35 emergency hearings as provided in paragraph (b-1), except to 977

1 the extent the limitations of time and the taking of 978
2 additional evidence set forth in paragraph (b-1) are 979
3 inconsistent with the provisions of this paragraph. If a 980
4 petition for review and agreed statement of facts or 981
5 transcript of evidence is filed, as provided herein, the
6 Commission shall promptly review the decision of the 982
7 Arbitrator and all questions of law or fact which appear from 983
8 the statement of facts or transcripts of evidence. 985
9 Additional evidence may be adduced where such evidence (1) 986
10 relates to the condition of the employee since the time of 987
11 the arbitration hearing, (2) relates to matters that occurred
12 or conditions that developed after the arbitration hearing, 988
13 or (3) was, for good cause, not introduced at the arbitration 989
14 hearing. After such hearing upon review, the Commission 991
15 shall file in its office its decision thereon, and shall 992
16 immediately send to each party or his attorney a copy of such
17 decision and a notification of the time when it was filed. 994
18 After January 1, 1986, decisions shall be filed within 60
19 days after a hearing on review or oral argument whichever is 995
20 later.

21 Such review and hearing may be held in its office or 997
22 elsewhere as the Commission may deem advisable. The taking of 998
23 testimony on such hearings may be had before any member of 999
24 the Commission. In the event either party requests oral 1000
25 argument, such argument shall be had before a panel of three 1001
26 members of the Commission (or before all available members 1002
27 pursuant to the determination of 5 members of the Commission 1003
28 that such argument be held before all available members of 1004
29 the Commission) pursuant to the rules and regulations of the 1005
30 Commission. A panel of three members, which shall be 1006
31 comprised of not more than one representative citizen of the
32 employing class and not more than one representative citizen 1008
33 of the employee class, shall hear the argument; provided that 1010
34 if all the issues in dispute are solely the nature and extent 1011
35 of the permanent partial disability, if any, a majority of 1012

1 the panel may deny the request for such argument and such 1013
2 argument shall not be held; and provided further that 5 1014
3 members of the Commission may determine that the argument be 1015
4 held before all available members of the Commission. 1017
5 Notwithstanding any other provisions of this Section, the 1018
6 Chairman may not regularly serve on any panel of 3 members of
7 the Commission as described in this Section, but may 1019
8 substitute for any member who is unavailable. A decision of 1021
9 the Commission shall be approved by a majority of 1022
10 Commissioners present at such hearing if any; provided, if no
11 such hearing is held, a decision of the Commission shall be 1023
12 approved by a majority of a panel of 3 members of the 1024
13 Commission as described in this Section. The Commission 1026
14 shall give 10 days' notice to the parties or their attorneys 1027
15 of the time and place of such taking of testimony and of such 1028
16 argument.
17 In any case the Commission in its decision may in its 1030
18 discretion find specially upon any question or questions of 1031
19 law or facts which shall be submitted in writing by either 1032
20 party whether ultimate or otherwise; provided that on issues 1033
21 other than nature and extent of the disablement, if any, the 1034
22 Commission in its decision shall find specially upon any 1035
23 question or questions of law or fact, whether ultimate or
24 otherwise, which are submitted in writing by either party; 1036
25 provided further that not more than 5 such questions may be 1037
26 submitted by either party. Any party may, within 20 days 1038
27 after receipt of notice of the Commission's decision, or 1039
28 within such further time, not exceeding 30 days, as the 1040
29 Commission may grant, file with the Commission either an
30 agreed statement of the facts appearing upon the hearing, or, 1041
31 if such party shall so elect, a correct transcript of 1042
32 evidence of the additional proceedings presented before the 1043
33 Commission in which report the party may embody a correct 1044
34 statement of such other proceedings in the case as such party 1045
35 may desire to have reviewed, such statement of facts or 1046

1 transcript of evidence to be authenticated by the signature 1046
2 of the parties or their attorneys, and in the event that they 1047
3 do not agree, then the authentication of such transcript of 1048
4 evidence shall be by the signature of any member of the 1049
5 Commission.

6 If a reporter does not for any reason furnish a 1051
7 transcript of the proceedings before the Arbitrator in any 1052
8 case for use on a hearing for review before the Commission, 1053
9 within the limitations of time as fixed in this Section, the 1054
10 Commission may, in its discretion, order a trial de novo 1055
11 before the Commission in such case upon application of either
12 party. The applications for adjustment of claim and other 1056
13 documents in the nature of pleadings filed by either party, 1057
14 together with the decisions of the Arbitrator and of the 1058
15 Commission and the statement of facts or transcript of 1059
16 evidence hereinbefore provided for in paragraphs (b) and (c) 1060
17 shall be the record of the proceedings of the Commission, and 1061
18 shall be subject to review as hereinafter provided.

19 At the request of either party or on its own motion, the 1063
20 Commission shall set forth in writing the reasons for the 1064
21 decision, including findings of fact and conclusions of law, 1065
22 separately stated. The Commission shall by rule adopt a 1066
23 format for written decisions for the Commission and 1067
24 arbitrators. The written decisions shall be concise and shall 1068
25 succinctly state the facts and reasons for the decision. The 1069
26 Commission may adopt in whole or in part, the decision of the 1070
27 arbitrator as the decision of the Commission. When the 1071
28 Commission does so adopt the decision of the arbitrator, it 1072
29 shall do so by order. Whenever the Commission adopts part of
30 the arbitrator's decision, but not all, it shall include in 1073
31 the order the reasons for not adopting all of the 1074
32 arbitrator's decision. When a majority of a panel, after 1075
33 deliberation, has arrived at its decision, the decision shall 1076
34 be filed as provided in this Section without unnecessary
35 delay, and without regard to the fact that a member of the 1077

1 panel has expressed an intention to dissent. Any member of 1079
2 the panel may file a dissent. Any dissent shall be filed no
3 later than 10 days after the decision of the majority has 1080
4 been filed.

5 Decisions rendered by the Commission after the effective 1082
6 date of this amendatory Act of 1980 and dissents, if any, 1083
7 shall be published together by the Commission. The 1084
8 conclusions of law set out in such decisions shall be 1085
9 regarded as precedents by arbitrators, for the purpose of 1086
10 achieving a more uniform administration of this Act. 1087

11 (f) The decision of the Commission acting within its 1089
12 powers, according to the provisions of paragraph (e) of this 1090
13 Section shall, in the absence of fraud, be conclusive unless 1091
14 reviewed as in this paragraph hereinafter provided. However, 1092
15 the Arbitrator or the Commission may on his or its own 1093
16 motion, or on the motion of either party, correct any 1094
17 clerical error or errors in computation within 15 days after
18 the date of receipt of any award by such Arbitrator or any 1095
19 decision on review of the Commission, and shall have the 1096
20 power to recall the original award on arbitration or decision 1097
21 on review, and issue in lieu thereof such corrected award or 1098
22 decision. Where such correction is made the time for review 1099
23 herein specified shall begin to run from the date of the 1100
24 receipt of the corrected award or decision.

25 (1) Except in cases of claims against the State of 1102
26 Illinois, in which case the decision of the Commission shall 1103
27 not be subject to judicial review, the Circuit Court of the 1104
28 county where any of the parties defendant may be found, or if 1105
29 none of the parties defendant be found in this State then the 1106
30 Circuit Court of the county where any of the exposure 1107
31 occurred, shall by summons to the Commission have power to 1108
32 review all questions of law and fact presented by such 1109
33 record.

34 A proceeding for review shall be commenced within 20 days 1112
35 of the receipt of notice of the decision of the Commission. 1113

1 The summons shall be issued by the clerk of such court upon 1115
2 written request returnable on a designated return day, not 1116
3 less than 10 or more than 60 days from the date of issuance 1117
4 thereof, and the written request shall contain the last known 1118
5 address of other parties in interest and their attorneys of 1120
6 record who are to be served by summons. Service upon any 1121
7 member of the Commission or the Secretary or the Assistant 1122
8 Secretary thereof shall be service upon the Commission, and 1123
9 service upon other parties in interest and their attorneys of
10 record shall be by summons, and such service shall be made 1124
11 upon the Commission and other parties in interest by mailing 1125
12 notices of the commencement of the proceedings and the return 1126
13 day of the summons to the office of the Commission and to the 1127
14 last known place of residence of other parties in interest or 1128
15 their attorney or attorneys of record. The clerk of the court 1129
16 issuing the summons shall on the day of issue mail notice of 1130
17 the commencement of the proceedings which shall be done by 1131
18 mailing a copy of the summons to the office of the 1132
19 Commission, and a copy of the summons to the other parties in 1133
20 interest or their attorney or attorneys of record and the 1134
21 clerk of the court shall make certificate that he has so sent 1135
22 such notices in pursuance of this Section, which shall be 1136
23 evidence of service on the Commission and other parties in 1137
24 interest.

25 The Commission shall not be required to certify the 1139
26 record of their proceedings in the Circuit Court unless the 1140
27 party commencing the proceedings for review in the Circuit 1141
28 Court as above provided, shall pay to the Commission the sum 1142
29 of 80 cents per page of testimony taken before the 1143
30 Commission, and 35 cents per page of all other matters
31 contained in such record, except as otherwise provided by 1144
32 Section 20 of this Act. Payment for photostatic copies of 1145
33 exhibit shall be extra. It shall be the duty of the 1146
34 Commission upon such payment, or failure to pay as permitted 1147
35 under Section 20 of this Act, to prepare a true and correct

1 typewritten copy of such testimony and a true and correct 1148
2 copy of all other matters contained in such record and 1149
3 certified to by the Secretary or Assistant Secretary thereof. 1150
4 In its decision on review the Commission shall determine 1152
5 in each particular case the amount of the probable cost of 1153
6 the record to be filed as a return to the summons in that 1154
7 case and no request for a summons may be filed and no summons 1156
8 shall issue unless the party seeking to review the decision 1157
9 of the Commission shall exhibit to the clerk of the Circuit 1158
10 Court proof of payment by filing a receipt showing payment or 1159
11 an affidavit of the attorney setting forth that payment has 1160
12 been made of the sums so determined to the Secretary or 1161
13 Assistant Secretary of the Commission. 1162
14 (2) No such summons shall issue unless the one against 1164
15 whom the Commission shall have rendered an award for the 1165
16 payment of money shall upon the filing of his written request 1166
17 for such summons file with the clerk of the court a bond 1168
18 conditioned that if he shall not successfully prosecute the 1159
19 review, he will pay the award and the costs of the 1170
20 proceedings in the court. The amount of the bond shall be
21 fixed by any member of the Commission and the surety or 1171
22 sureties of the bond shall be approved by the clerk of the 1172
23 court. The acceptance of the bond by the clerk of the court 1173
24 shall constitute evidence of his approval of the bond. 1174
25 Every county, city, town, township, incorporated village, 1176
26 school district, body politic or municipal corporation having 1177
27 a population of 500,000 or more against whom the Commission 1178
28 shall have rendered an award for the payment of money shall 1179
29 not be required to file a bond to secure the payment of the 1180
30 award and the costs of the proceedings in the court to 1181
31 authorize the court to issue such summons.
32 The court may confirm or set aside the decision of the 1183
33 Commission. If the decision is set aside and the facts found 1184
34 in the proceedings before the Commission are sufficient, the 1185
35 court may enter such decision as is justified by law, or may 1186

1 remand the cause to the Commission for further proceedings 1187
2 and may state the questions requiring further hearing, and 1188
3 give such other instructions as may be proper. Appeals shall
4 be taken to the Supreme Court in accordance with Supreme 1189
5 Court Rule 302(a).
6 It shall be the duty of the clerk of any court rendering 1191
7 a decision affecting or affirming an award of the Commission 1192
8 to promptly furnish the Commission with a copy of such 1193
9 decision, without charge.
10 The decision of a majority of the members of the panel of 1195
11 the Commission, shall be considered the decision of the 1197
12 Commission.
13 (g) Except in the case of a claim against the State of 1199
14 Illinois, either party may present a certified copy of the 1200
15 award of the Arbitrator, or a certified copy of the decision 1201
16 of the Commission when the same has become final, when no 1202
17 proceedings for review are pending, providing for the payment 1203
18 of compensation according to this Act, to the Circuit Court 1204
19 of the county in which such exposure occurred or either of 1205
20 the parties are residents, whereupon the court shall enter a
21 judgment in accordance therewith. In case where the employer 1206
22 refuses to pay compensation according to such final award or 1207
23 such final decision upon which such judgment is entered, the 1208
24 court shall in entering judgment thereon, tax as costs 1209
25 against him the reasonable costs and attorney fees in the 1210
26 arbitration proceedings and in the court entering the
27 judgment for the person in whose favor the judgment is 1211
28 entered, which judgment and costs taxed as herein provided 1212
29 shall, until and unless set aside, have the same effect as 1213
30 though duly entered in an action duly tried and determined by 1214
31 the court, and shall with like effect, be entered and 1215
32 docketed. The Circuit Court shall have power at any time upon
33 application to make any such judgment conform to any 1216
34 modification required by any subsequent decision of the 1217
35 Supreme Court upon appeal, or as the result of any subsequent 1218

1 proceedings for review, as provided in this Act. 1219

2 Judgment shall not be entered until 15 days' notice of 1221

3 the time and place of the application for the entry of 1222

4 judgment shall be served upon the employer by filing such 1223

5 notice with the Commission, which Commission shall, in case 1224

6 it has on file the address of the employer or the name and 1225

7 address of its agent upon whom notices may be served, 1226

8 immediately send a copy of the notice to the employer or such 1226

9 designated agent.

10 (h) An agreement or award under this Act providing for 1228

11 compensation in installments, may at any time within 18 1229

12 months after such agreement or award be reviewed by the 1230

13 Commission at the request of either the employer or the 1231

14 employee on the ground that the disability of the employee 1232

15 has subsequently recurred, increased, diminished or ended.

16 However, as to disablements occurring subsequently to 1234

17 July 1, 1955, which are covered by any agreement or award 1235

18 under this Act providing for compensation in installments 1236

19 made as a result of such disablement, such agreement or award 1237

20 may at any time within 30 months after such agreement or 1238

21 award be reviewed by the Commission at the request of either 1239

22 the employer or the employee on the ground that the 1239

23 disability of the employee has subsequently recurred, 1240

24 increased, diminished or ended.

25 On such review compensation payments may be 1242

26 re-established, increased, diminished or ended. The 1243

27 Commission shall give 15 days' notice to the parties of the 1244

28 hearing for review. Any employee, upon any petition for such 1245

29 review being filed by the employer, shall be entitled to 1 1246

30 day's notice for each 100 miles necessary to be traveled by 1247

31 him in attending the hearing of the Commission upon the 1248

32 petition, and 3 days in addition thereto. Such employee 1249

33 shall, at the discretion of the Commission, also be entitled 1249

34 to 5 cents per mile necessarily traveled by him within the 1250

35 State of Illinois in attending such hearing, not to exceed a 1251

1 distance of 300 miles, to be taxed by the Commission as costs 1251
2 and deposited with the petition of the employer. 1252
3 When compensation which is payable in accordance with an 1254
4 award or settlement contract approved by the Commission, is 1255
5 ordered paid in a lump sum by the Commission, no review shall 1256
6 be had as in this paragraph mentioned. 1257
7 (i) Each party, upon taking any proceedings or steps 1259
8 whatsoever before any Arbitrator, Commission or court, shall 1261
9 file with the Commission his address, or the name and address 1262
10 of any agent upon whom all notices to be given to such party 1263
11 shall be served, either personally or by registered mail, 1263
12 addressed to such party or agent at the last address so filed 1264
13 with the Commission. In the event such party has not filed 1265
14 his address, or the name and address of an agent as above 1266
15 provided, service of any notice may be had by filing such 1267
16 notice with the Commission.
17 (j) Whenever in any proceeding testimony has been taken 1269
18 or a final decision has been rendered, and after the taking 1270
19 of such testimony or after such decision has become final, 1271
20 the employee dies, then in any subsequent proceeding brought 1272
21 by the personal representative or beneficiaries of the 1273
22 deceased employee, such testimony in the former proceeding 1274
23 may be introduced with the same force and effect as though 1275
24 the witness having so testified were present in person in 1276
25 such subsequent proceedings and such final decision, if any, 1277
26 shall be taken as final adjudication of any of the issues 1277
27 which are the same in both proceedings. 1278
28 (k) In any case where there has been any unreasonable or 1280
29 vexatious delay of payment or intentional underpayment of 1281
30 compensation, or proceedings have been instituted or carried 1282
31 on by one liable to pay the compensation, which do not 1283
32 present a real controversy, but are merely frivolous or for 1284
33 delay, then the Commission may award compensation additional 1285
34 to that otherwise payable under this Act equal to 50% of the
35 amount payable at the time of such award. Failure to pay 1286

1 compensation in accordance with the provisions of Section 8, 1287
2 paragraph (b) of this Act, shall be considered unreasonable 1288
3 delay. 1289

4 (1) By the 15th day of each month each insurer providing 1290
5 coverage for losses under this Act shall notify each insured 1291
6 employer of any compensable claim incurred during the 1292
7 preceding month and the amounts paid or reserved on the claim 1293
8 including a summary of the claim and a brief statement of the 1294
9 reasons for compensability. A cumulative report of all 1295
10 claims incurred during a calendar year or continued from the 1296
11 previous year shall be furnished to the insured employer by 1297
12 the insurer within 30 days after the end of that calendar 1298
13 year. 1299

14 The insured employer may challenge, in proceeding before 1300
15 the Commission, payments made by the insurer without 1301
16 arbitration and payments made after a case is determined to 1302
17 be noncompensable. If the Commission finds that the case was 1303
18 not compensable, the insurer shall purge its records as to 1304
19 that employer of any loss or expense associated with the 1305
20 claim, reimburse the employer for attorneys fee arising from 1306
21 the challenge and for any payment required of the employer to 1307
22 the Rate Adjustment Fund or the Second Injury Fund, and may 1308
23 not effect the loss or expense for rate making purposes. The 1309
24 employee shall not be required to refund the challenged 1310
25 payment. The decision of the Commission may be reviewed in 1311
26 the same manner as in arbitrated cases. No challenge may be 1312
27 initiated under this paragraph more than 3 years after the 1313
28 payment is made. An employer may waive the right of 1314
29 challenge under this paragraph on a case by case basis. 1315
30 Section 3. This Act takes effect upon its becoming a 1316
31 law. 1317

Background

After reviewing the Illinois State and Local Labor Relations Boards' rules concerning the length of time allowed a fact-finder to issue a written report following a hearing (80 Ill. Adm. Code 1230), the Joint Committee on Administrative Rules found that the Boards' rules conflict with Section 13 of the Illinois Public Labor Relations Act. The Boards' rules require that the fact-finder issue a written report as soon after the hearing as practicable, while the Act requires a report of facts and recommendations to be issued upon completion of the hearing, but no later than 45 days from the date of the fact-finder's appointment. The Boards' interpretation of the statutory provision is that the 45 day limitation in Section 13 is directory rather than mandatory meaning that the fact-finder shall, if possible, issue a written report within 45 days after the appointment. The 45 day limitation on fact-finders' reports contained in Section 13 is unambiguous. Therefore, the Joint Committee recommended that legislation be developed to amend Section 13 of the Illinois Public Labor Relations Act to clarify the mandatory nature of the statutory deadline for issuance of a written report by a fact-finder.

Summary

Amends Section 13 of the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1984 Supp., ch. 48, par. 1613) to make it clear that fact-finders must make written findings of fact and recommendations for resolution of labor disputes and serve such findings on the public employer and labor organization involved as well as publicizing all such findings no later than forty-five days from the date of the fact-finders' appointment. Effective immediately.

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

SYNOPSIS: (Ch. 48, par. 1613)

Amends the Illinois Public Labor Relations Act relating to fact-finding. Provides that if the fact-finder does not make written findings of facts and recommendations for the resolution of the labor dispute and serve and publicize his findings within 45 days of the date of appointment of the fact-finder, the parties may resume negotiations. Effective immediately.

LRB8407583RCm1

A BILL FOR

1 AN ACT to amend Section 13 of the "Illinois Public Labor 57
2 Relations Act", certified December 27, 1983, as amended. 59

3 Be it enacted by the People of the State of Illinois, 63
4 represented in the General Assembly:

5 Section 1. Section 13 of the "Illinois Public Labor 65
6 Relations Act", certified December 27, 1983, as amended, is 66
7 amended to read as follows:

(Ch. 48, par. 1613) 68

8 Sec. 13. Fact-finding. (a) If, after a reasonable 70
9 period of negotiation over the terms of the agreement, or 71
10 upon expiration of an existing collective bargaining 72
11 agreement and the parties have not been able to mutually
12 resolve the dispute, the parties may, by mutual consent 73
13 initiate a fact-finding.

14 (b) Within three days of such request the Board must 75
15 submit to the parties a panel of 7 qualified, disinterested 76
16 persons from the Illinois Public Employees Mediation Roster 77
17 to serve as a fact-finder. The parties to the dispute shall 78
18 designate one of the 7 persons to serve as fact-finder. The
19 fact-finder must act independently of the Board and may be 79
20 the same person who participated in the mediation of the 80
21 labor dispute if both parties consent. The person selected 81
22 or appointed as fact-finder shall immediately establish the 82
23 dates and place of hearings. Upon request, the Board shall
24 issue subpoenas for hearings conducted by the fact-finder. 83
25 The fact-finder may administer oaths. The fact-finder shall 84
26 initially determine what issues are in dispute and therefore 85
27 properly before the fact-finder. Upon completion of the
28 hearings, but no later than 45 days from the date of 86
29 appointment, the fact-finder must make written findings of 87
30 facts and recommendations for resolution of the dispute, must 88
31 serve findings on the public employer and the labor
32 organization involved, and must publicize such findings by 89

1 mailing them to all newspapers of general circulation in the 90
2 community. The fact-finder's findings shall be advisory only 91
3 and shall not be binding upon the parties. If the parties do 92
4 not accept the recommendations of the fact-finder as the 93
5 basis for settlement, or if the fact-finder does not make
6 written findings of facts and recommendations for the 94
7 resolution of the dispute and serve and publicize such 95
8 findings within 45 days of the date of appointment, the 96
9 parties they may resume negotiations.
10 (c) The public employer and the labor organization which 98
11 is certified as exclusive representative or which is 99
12 recognized as exclusive representative in any particular 100
13 bargaining unit by the state or political subdivision are the 101
14 only proper parties to the fact-finding proceedings. 102
15 Section 2. This Act takes effect upon becoming law. 104

1985 LEGISLATIVE ACTIVITY

The 1985 recommendations for legislation issued by the Joint Committee on Administrative Rules were overwhelmingly endorsed by the General Assembly as evidenced by the number of Committee drafted and sponsored bills passed during the 1985 Spring Session. In addition, several public acts sponsored by Joint Committee members produced changes in the Illinois Administrative Procedure Act. The following is a summation of those public acts.

Public Act 84-0022. Public Act 84-0022 (House Bill 394, sponsored by Representatives Barnes and Vinson and Senators Carroll and Topinka), effective July 18, 1985, amends the Medical Assistance Article of the Public Aid Code to require the Department of Public Aid to adopt additions to and deletions from the Drug Manual as emergency rules. The Act also amends Section 5.02 of the Illinois Administrative Procedure Act to exempt such additions and deletions from the prohibition against filing more than one emergency rulemaking with substantially the same purpose and effect in a twenty-four month period.

Public Act 84-0123. Public Act 84-0123 (Senate Bill 588, sponsored by Senators Karpis and Berman and Representatives Panayotovich and Mays), effective July 30, 1985, amends the Illinois Educational Labor Relations Act to allow an individual to file an unfair labor practice charge with the Illinois Educational Labor Relations Board. The Act originally allowed only employers and labor unions to file such charges.

Public Act 84-0423. Public Act 84-0423 (Senate Bill 489, sponsored by Senators Netsch and Etheredge and Representatives Levin and Currie), effective January 1, 1986, provides that the Department of Conservation is authorized to grant tax incentives to rehabilitate the interior, as well as the exterior, of historic buildings.

Public Act 84-0424. Public Act 84-0424 (Senate Bill 501, sponsored by Senator Rupp and Representative Hartke), effective January 1, 1986, provides that sureties for public construction projects can be suspended by the State Department of Transportation or the local governmental entity involved. The legislation was drafted after consultation with the Departments of Transportation and Insurance. This legislation corrected a statutory problem which was discovered during a review of the Department of Transportation's rules governing highway construction. Under the existing statute, the Department of Insurance, not the Department of Transportation, had the authority to suspend sureties.

Public Act 84-0427. Public Act 84-0427 (Senate Bill 729, sponsored by Senators Berman and Bloom and Representative Olson), effective January 1,

1986, was drafted by the Joint Committee in response to recommendations for legislation to clarify and specifically authorize by statute programs currently being implemented by agencies through administrative rulemaking.

Specifically, Public Act 84-0427 does the following:

Section 1 amends the Horse Racing Act to authorize the Illinois Racing Board to require appellants to bear the costs of the production of hearing transcripts.

Section 2 amends the Illinois Election Code to authorize the State Board of Elections to determine by rule what organizations qualify as bona fide state civic organizations under the Code. The Board currently certifies such organizations by rule, however, the Code authorizes county clerks to make such determinations.

Section 3 amends the Insurance Code to provide that the Department of Insurance shall approve statistical plans, and that such plans be made available for public inspection. Additionally, it provides that the Department shall not require, by rule, that an insurer record or report loss experience according to a statistical plan which differs from that used in the ordinary course of the insurer's business.

Section 4 amends the Certified Shorthand Reporters Act of 1984 to authorize the Department of Registration and Education to restore certificates issued under the Act without filing proof of fitness if such certificate was expired for less than 5 years. The Department's rules currently allow such restoration.

Section 5 amends "An Act in relation to the prevention of developmental disabilities" to require the Department of Mental Health and Developmental Disabilities to establish standards requiring perinatal care facilities to submit plans or enter into agreements which adequately address the requirements of the Act.

Section 6 amends the Hospice Licensing Act to delete the statutory requirement that the Department of Public Health structure hospice licensing standards so that the size of the hospice program is taken into account. The Department's rules currently reflect this policy.

Section 7 repeals a provision of the Illinois Horse Racing Act which requires that 90% of the Illinois Racing Board's employees be residents of the State of Illinois for at least 2 years prior to their employment.

Public Act 84-0469. Public Act 84-0469 (House Bill 1044, sponsored by Representatives Vinson and Flinn and Senator Lechowicz), effective January 1, 1980, amends Section 2 of the Illinois Administrative Procedure Act to permit the Department of Central Management Services to amend or repeal pay rates using the peremptory rulemaking process of Section 5.03 of the Act within 30 days after a change in the rates is necessary due to a collective bargaining agreement. Under current law, such rates must be promulgated as emergency rules, and the Department must also propose the changes using

the general rulemaking process. This legislation will save the Department and the Joint Committee a great deal of administrative time and duplicative effort.

Public Act 84-0510. Public Act 84-0510 (Senate Bill 378, sponsored by Senators Bloom and Nedza and Representative Tuerk), effective January 1, 1986, amends the Illinois Vehicle Code to permit the Office of the Secretary of State to issue a probationary drivers license to an individual whose driving privileges have been suspended or revoked. The Secretary has been issuing such licenses for a number of years, however the Vehicle Code did not authorize the practice. The bill, which was drafted in conjunction with the Office of the Secretary of State and the Department of Transportation, authorizes the current practice.

Public Act 84-0575. Public Act 84-0575 (House Bill 992, sponsored by Representative Kirkland and Senator Bloom) became effective on September 19, 1985. Public Act 84-0575 was the result of the Joint Committee's review of the State Board of Education's rules concerning the certification of teachers and administrators. It provides a procedure by which the State Board of Education can establish, by rule, requirements for administrative certificates which exceed the statutory requirements.

Public Act 84-0576. Public Act 84-0576 (House Bill 1042, sponsored by Representative Levin and Senator Bloom), effective January 1, 1986, amends the Illinois Administrative Procedure Act to specifically state that the peremptory rulemaking procedures of Section 5.03 of the Act cannot be used to implement consent decrees or other court orders adopting settlements negotiated by an agency. Instead, the emergency rulemaking procedures of the Act can be used to implement such orders or decrees. This amendment to the Act will ensure that the public is given adequate notice and an opportunity to comment upon rules implementing such decrees and orders before they become effective on a permanent basis.

Public Act 84-0737. Public Act 84-0737 (House Bill 1045, sponsored by Representatives Flinn and Vinson and Senator Lechowicz), effective January 1, 1986, amends the Illinois Environmental Protection Act to allow the Pollution Control Board to amend its rules in response to an objection or suggestion of the Joint Committee on Administrative Rules without holding an additional public hearing or allowing an additional opportunity for public notice and comment on the changes recommended by the Joint Committee, under certain circumstances.

Public Act 84-0772. Public Act 84-0772 (Senate Bill 379, sponsored by Senators Nedza and Bloom and Representative Kulas), effective January 1, 1986, amends the Illinois Vehicle Code to provide that the conviction of a driving offense on a military base may serve as cause for the Office of the Secretary of State to revoke or suspend a driving license or permit. This practice has been endorsed by the commanders of several military bases in Illinois and codifies the Secretary's present rules regarding this issue. The

Office of the Secretary of State and the Department of Transportation worked with the Joint Committee to draft this legislation.

Public Act 84-0784. Public Act 84-0784 (Senate Bill 612, sponsored by Senators Bloom and Berman and Representatives Levin and Vinson), effective January 1, 1986, amends the Illinois Administrative Procedure Act to allow an agency to incorporate by reference in its rules the standards or guidelines of an agency of the United States, if the standards or guidelines are available for public inspection and copying at the agency's principal office and the incorporation is approved by the Joint Committee. Currently, agencies are permitted to incorporate by reference standards, guidelines, rules and regulations of nationally recognized organizations or associations, and rules or regulations of federal agencies. Federal agencies also publish guidelines and standards such as OMB circulars, and these cannot presently be incorporated by reference. This provision will permit such incorporations.

Public Act 84-0793. Public Act 84-0793 (Senate Bill 728, sponsored by Senators Berman and Bloom and Representatives Vinson and Flinn), effective January 1, 1986, was drafted by the Joint Committee to direct various state agencies to promulgate rules delineating standards used by the agencies in making administrative decisions, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Specifically, Public Act 84-0793 does the following:

Section 1 amends the Toxic Substances Disclosure to Employees Act to require the Department of Labor to promulgate rules prescribing the standards used by the Department in determining whether a laboratory is under the direct supervision of a technically qualified individual.

Section 2 amends the Illinois Vehicle Code to authorize the Office of the Secretary of State to issue a probationary license to a person whose driving privileges have been suspended or revoked and requires the Secretary to promulgate rules setting forth the conditions and criteria for the issuance and cancellation of probationary licenses. The Joint Committee on Administrative Rules worked with the Office of the Secretary of State and the Department of Transportation to draft this section of this bill.

Section 3 amends the Illinois Occupational Therapy Practice Act to authorize the Department of Registration and Education to restore certificates issued under this Act without filing proof of fitness if the certificate has been expired for less than five years. The Department's rules currently allow this practice.

Section 4 amends the School Code to require that the State Board of Education prescribe specific rules and regulations concerning eligibility criteria, including the criteria used to determine the financial need for fellowship and traineeship grants. It also requires that the State Board of Education establish rules and regulations governing the conditions under which it will require grantees to refund all or part of the grant monies awarded, and requires that the Board develop specific standards for the recognition of teacher education institutions with regard to education in

working with culturally distinctive students if the Board requires this component in the teachers' education programs.

Section 5 amends the Secretary of State Merit Employment Code to require the Office of the Secretary of State's Merit Commission to place within its rules the standards and criteria the Commission and the Commission's hearing officers use in making discretionary determinations during hearing procedures, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Public Act 84-0834. Public Act 84-0834 (House Bill 1059, sponsored by Representatives Olson and Flinn and Senator Bloom), effective January 1, 1986, was drafted by the Joint Committee on Administrative Rules in order to resolve statutory authority issues which arose during the Joint Committee's review of the rules of several State agencies. The bill was amended by Senator Welch and Senator Bloom at the request of the Illinois Retail Merchants Association to establish the Space Heating Safety Act.

Specifically, Public Act 84-0834 does the following:

Sections 1-11 establish the Space Heating Safety Act.

Section 12 amends the Liquor Control Act of 1934 to authorize holders of a railroad license to import alcoholic liquors to be served in its dining cars. Currently, the Act authorizes holders of airline licenses to import liquor, and the Liquor Control Commission allows such importation of alcohol, by rule, by railroads.

Section 13 amends the Child Labor Law to grant the Department of Labor authority to regulate reasonable conditions of employment for minors employed as models or performers on radio or television. The statute currently provides the Department with the authority to regulate the employment of minors in theatrical productions but does not address models or actors.

Section 14 amends "An Act in relation to State forests, operation of forest nurseries, and providing penalties in connection therewith" to provide authority to the Department of Conservation to sell trees and shrubs for Arbor Day and for other commemorative plantings to the general public. The Department's rules currently provide for such sales, but the statute did not allow such sales.

Section 15 amends "An Act relating to the planning, acquisition and development of outdoor recreation resources and facilities, and authorizing the participation by the State of Illinois and its political subdivisions and qualified participants in programs of Federal assistance relating thereto" by creating a new section which authorizes the Department of Conservation to adopt rules in order to implement the provisions of the Act. The Department currently has rules to implement this Act, but does not have general rulemaking authority under the Act.

Section 16 amends the Timber Buyers Licensing Act to provide the Department of Conservation with the specific authority to establish a voluntary arbitration program when the value of timber utilized is in dispute.

The Department currently provides for such a program by rule, but it is not statutorily authorized.

Section 17 amends the Medical Practice Act to repeal the provisions concerning the Board of Higher Education's responsibility to adopt guidelines for the purpose of funding supervised clinical training because this paragraph is obsolete due to the fact no funds are available for the program.

Section 18 amends "An Act prescribing the color and label for gasoline or benzol receptacles" to authorize the Office of the State Fire Marshal to provide by rule the specific labeling requirements for all receptacles containing benzol or gasoline. The Fire Marshal currently prescribes such requirements by rule.

Section 19 amends "An Act to regulate the storage, transportation, sale and use of gasoline and volatile oils" to authorize the Office of the State Fire Marshal to promulgate rules permitting the operation of self-service stations in Illinois. The Fire Marshal currently provides for the issuance of such permits by rule.

Section 20 amends the Financial Assistance Act for Nonpublic Institutions of Higher Learning to require that, as a condition of eligibility for grants awarded under the Act, a nonpublic institution of higher learning must submit to an external audit of its enrollment records and nonsectarian use of funds.

Public Act 84-0954. Public Act 84-0954 (House Bill 1285, sponsored by Representatives Olson, Klemm and Deuchler and Senator Weaver), effective July 1, 1986, amends the Illinois Administrative Procedure Act to add Section 5a. This section will permit (but does not require) a State agency to submit to the Illinois Register, for publication, an agenda of rules it is considering proposing in order to elicit public comment.

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APPENDIX A
HISTORY OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES
AND THE ILLINOIS ADMINISTRATIVE PROCEDURE ACT

By the mid-1970's Illinois had 65 major agencies and nearly 250 smaller boards and commissions. The courts had ruled that administrative rules have the effect of law, and decisions rendered by those bodies conceivably affected the lives of more Illinois citizens than any other in government. Yet, observers of the scene found that organization among these agencies was complex, duplicative and chaotic. Indeed, at the time, no single source could produce a complete organization chart or even a listing of all Illinois agencies, boards and commissions. The goals of good government had been clear for generations. Government is accountable to the people for the effective, efficient and economic delivery of services. Toward this end, the federal government had enacted the federal Administrative Procedure Act thirty years before Illinois, and in September 1975, the Governor signed Public Act 79-1083, effective September 22, 1975, creating the Illinois Administrative Procedure Act.

The Illinois Administrative Procedure Act established four categories of administrative proceedings, rules, contested cases, licenses and rate-making. The Governor's message accompanying the signing of the Public Act pointed out that this legislation formalized some common procedures, such as public hearings on proposed rules. The message also called the public petition procedures innovative and endorsed the establishment of rulemaking requirements. However, it soon became apparent that the establishment of rulemaking requirements would conflict with Section 2 of the Act that exempted agencies from compliance with any part of the Act except as expressly stated in the law which created or conferred power upon that agency.

In 1977, Section 2 was amended by Public Act 80-1035 (House Bill 14, effective September 27, 1977) to make the Act applicable to every agency, except as specified. Agencies have continued to claim an exemption because they are not an "agency," as defined in the Act, or to excuse lack of rules for on-going programs because legislation creating the program failed to

specify that rulemaking was required. Most agencies, however, have cooperated in the rulemaking process. This has been particularly true since Illinois regulations were codified by the Office of the Secretary of State in January 1985, and the rulemaking procedures standardized. As a result, rulemaking is now more widely understood by both professionals and the affected public.

The Joint Committee on Administrative Rules was created by the General Assembly in 1977 through the passage of House Bill 14 (Public Act 80-1035, effective September 27, 1977), a comprehensive amendment to the Illinois Administrative Procedure Act. The functions of the Joint Committee under the amended Administrative Procedure Act can be broadly classified in two categories, an on-going review and comment function in relation to newly proposed rulemaking actions of State agencies, and a longer-term, more in-depth examination of groups of existing rules including a 5 year program to review each agencies' rules and rulemaking process. For too long, said the first Chairperson of the Joint Committee, Representative Harry Yourell, the legislature had been content to pass legislation without systematically ensuring that agencies charged with the task of implementing that legislation were properly interpreting and complying with the intent of the legislation. In addition to making the Act's rulemaking and hearing provisions applicable to all state agencies and the creation of the Joint Committee on Administrative Rules, Public Act 80-1035 made several other changes in the Act, including creation of the Illinois Register, a weekly publication of the Secretary of State which informs the public of all rulemaking activity by State agencies.

The minutes of the monthly meetings during the first year show that the Joint Committee dealt with issues commonly facing a new organization, such as staffing and office space, as well as substantive issues about rulemaking and interpretations of The Illinois Administrative Procedures Act. For example, within the first few months the Joint Committee had reviewed its powers and duties and, based on the separation of powers clause in the 1970 Illinois Constitution, found them to be advisory only. The Joint Committee sent guidelines to all State agencies to assist them in complying with provisions of the Act and prepared an amendment to clarify that all boards of State institutions of higher education were affected by the Act. By the third

meeting in January 1978, the Joint Committee was reviewing proposed rules published in the Illinois Register. Objections were issued to several of the rules. At this time, all negotiations between the Joint Committee and a rulemaking agency took place at the monthly meeting, a practice that on occasion resulted in very long meetings. The question of court ordered rule changes was first considered by the Joint Committee in February, 1978. A court had ordered an amendment to the Illinois Department of Public Aid's rule on physician services for medically necessary abortions for a public aid recipient. Legislation was drafted and presented to the March 23, 1978 meeting to establish a new category of peremptory rulemaking for rules required by court order or federal rules and regulations. But it was not until a year and a half later that the Act was amended by Public Act 81-1044 (effective October 1, 1979) to authorize this category of rulemaking.

By March 1978, the Joint Committee had established July 1, 1980 as the deadline for agencies to prepare and submit a compilation of all their rules. In addition, legislation was drafted to require that rules must contain specific standards and criteria to permit the affected public to understand the basis on which agency discretion was to be used. This standards and criteria amendment did not become effective July 1, 1980 (Public Act 81-1129). In March 1978, the Joint Committee also discussed amending the Illinois Administrative Procedure Act to place the burden of proof upon agencies asserting the validity of contested rules in court cases involving rules which have been objected to by the Joint Committee, whenever such agencies have refused to remedy Joint Committee objections. This concept is yet to be enacted.

By the end of its first full year, the Joint Committee had reviewed nearly 500 rulemakings (TABLE 14) and prepared a legislative package that contained 23 recommended bills.

In its second year of operation, 1979, the Joint Committee examined over 525 rulemakings, issued 65 statements of objection and implemented the five-year rules review program. Agency rulemaking increased in 1980 during which time the Joint Committee reviewed nearly 700 proposed, emergency and peremptory rulemakings and completed 9 detailed reviews of 28 sets of

existing rules. Agency rulemaking has generally continued to increase during the eight years that the Joint Committee has compiled data. The tables which show a comparison of general, emergency, and peremptory rulemaking from 1978 through 1985 (TABLES 14, 15, and 16) illustrate the rulemaking activity of state agencies during that time.

TABLE 17 shows the total number of objections issued by the Joint Committee compared with the total number of agency responses during the history of the Committee. The "Withdrawn or Repeal" category consists of two categories of agency responses. These are the instances when an agency withdrew the section of a proposed rule in response to an objection issued by the Joint Committee, and instances when a proposed rule has been automatically withdrawn due to the failure of the agency to respond within 90 days as required by Section 7.06(f) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.06(f)). For the year 1985, two of the rules that received Statements of Objection were withdrawn by the agency, but there were no cases of automatic withdrawal due to the failure of a timely response by an agency.

For the year 1985, agencies agreed to modify or amend rules 30 times in response to Joint Committee objections. This response accounts for 17% of the number of objections and continues the downward trend away from agreement to modify rules to which objections are issued.

"Refusal," as found in TABLE 17 means the agency has responded to the objection by refusing to modify or withdraw the proposed rule. In addition, if an agency fails to respond to a Joint Committee objection to an emergency rule or a peremptory rule, this is counted as a refusal to modify or withdraw the rule, pursuant to Section 7.07(g) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.07(g)). Agency refusal to modify or withdraw a rulemaking in response to an objection has continued to increase since 1982.

The Illinois Administrative Procedure Act has been continually evolving since 1977. In addition to the creation of the Joint Committee on Administrative Rules as an oversight body, which became a Legislative Support Services

agency in 1984, the Act has been amended to deal with numerous problems which have arisen. One of the most significant has been the implementation of the small business flexibility requirements imposed pursuant to Sections 3.10, 4.03, 5.01, and 7.06 of the Act. These Sections require agencies to consider the impact of rules upon small businesses and, if feasible, suggest alternatives to those rules. The Act will continue to evolve as problems concerning administrative rulemaking arise.

009:AR85

COMPARISON OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 1985

AGENCY	1978	1979	1980	1981	1982	1983	1984	1985
Abandoned Mined Lands Reclamation Council	-	-	-	1	-	-	2	-
Administrative Rules, Joint Committee on	3	5	1	1	1	-	-	3
Administrative Services, Department of (1)	1	-	7	7	1	-	-	-
Aggregate Mining Problems Study Commission	-	-	-	1	-	-	-	-
Aging, Department on	5	1	6	6	4	4	6	3
Agriculture, Department of	14	17	14	16	24	18	41	15
Alcoholism and Substance Abuse, Department of (2)	-	-	-	-	-	-	2	5
Attorney General	3	1	2	-	3	2	3	2
Auditor General	7	5	2	1	4	1	3	1
Banks and Trust Companies, Commissioner of	2	5	3	-	6	-	3	1
Capital Development Board	2	1	3	-	3	-	2	9
Central Management Services, Department of (1)	2	-	-	-	3	16	18	10
Children and Family Services, Department of	2	2	60	1	26	10	23	14
Cities and Village Municipal Problems Commission	-	-	-	1	-	-	-	-
Civil Service Commission	-	-	-	2	-	-	2	-
Civil Service Merit Board, University	-	-	-	3	-	1	-	1
Civil Service System, State Universities	-	-	-	-	-	-	2	1
Commerce and Community Affairs, Department of	-	-	-	1	8	4	20	29
Commerce Commission, Illinois	-	-	-	10	21	19	43	22
Community College Board, Illinois	17	11	19	-	1	2	3	2
Comptroller	1	2	4	3	4	4	3	1
Condominium Study Commission, Joint	-	-	-	1	-	-	-	-
Conservation, Department of	76	92	75	108	33	34	36	34
Corrections, Department of	82	23	38	24	15	66	-	1
County Problems Commission	-	-	-	1	-	-	-	-
Court of Claims	-	-	-	-	-	-	-	1
Criminal Justice Information Authority, Illinois (formerly the Criminal Justice Information Council, Illinois)	1	2	-	-	-	-	-	1
Dangerous Drugs Advisory Council	-	-	-	2	-	-	-	-
Dangerous Drugs Commission (2)	-	-	-	2	3	3	2	-
East St. Louis, Board of Trustees of the State Community College of	-	-	-	-	2	1	-	1
Education, Board of Higher	-	3	2	5	-	-	20	5
Education Loan Authority, Illinois Independent Higher	-	-	-	-	-	2	1	-
Education, State Board of	3	4	9	8	3	7	5	12
Educational Facilities Authority, Illinois	-	-	1	-	2	1	1	-
Elections, State Board of	6	1	8	3	7	3	4	1

TABLE 14
COMPARISON OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 1985
(continued)

AGENCY	1978	1979	1980	1981	1982	1983	1984	1985
Emergency Services and Disaster Agency	-	-	-	2	9	7	-	-
Employment Security, Department of (3)	-	-	-	-	-	-	3	13
Energy and Natural Resources, Department of	-	-	-	-	2	1	-	3
Energy Resource Commission	-	-	-	1	1	-	-	-
Environmental Protection Agency	7	12	10	16	18	20	21	10
Experimental Organ Transplantation	-	-	-	-	-	-	-	-
Procedures Board, Illinois (4)	-	-	-	-	-	-	-	1
Export Development Authority	2	3	-	-	-	-	-	1
Fair Employment Practices Commission	-	-	-	-	-	-	-	-
Farm Development Authority, Illinois	1	10	8	3	1	1	2	1
Financial Institutions, Department of	1	2	1	1	7	3	9	4
Fire Marshal, Office of the State	1	6	2	1	-	1	1	1
Governor's Purchased Care Review Board	-	-	2	1	2	2	1	3
Guardianship and Advocacy Commission	-	-	-	-	-	-	-	10
Health Care Cost Containment Council	4	1	-	2	-	-	-	-
Health Coordinating Council, Statewide	5	2	-	1	-	-	-	-
Health Facilities Authority, Illinois	-	1	-	-	-	-	2	1
Health Facilities Planning Board (5)	-	1	5	1	1	-	-	-
Health Finance Authority	-	-	-	-	-	-	-	-
Housing Development Authority, Illinois	-	-	1	1	1	-	-	5
Human Rights Commission (6)	-	-	-	-	1	2	2	-
Human Rights, Department of (6)	-	-	-	5	4	3	1	-
Illinois, Board of Trustees of the University of	-	-	-	1	-	1	1	1
Industrial Commission	4	1	3	2	3	1	2	7
Insurance, Department of	15	14	17	13	13	4	25	9
Investment, Illinois State Board of	5	6	1	7	1	2	-	3
Labor, Department of (3)	-	-	-	-	-	-	-	-
Labor Relations Board, Illinois Educational	-	-	-	-	-	-	-	3
Labor Relations Board, Illinois Local (7)	-	-	-	-	-	-	-	3
Labor Relations Board, Illinois State (7)	-	-	-	-	-	-	-	1
Law Enforcement Commission	-	-	-	-	-	-	-	-
Law Enforcement Merit Board, Department of	2	2	1	-	-	-	-	1
Legislative Information System	1	-	2	-	2	1	-	-
Liquor Control Commission, Illinois	-	-	-	-	-	1	-	-
Local Government Affairs, Department of	1	-	3	-	-	-	-	-
Local Government Records Commission	-	1	-	-	-	-	-	-

TABLE 14
COMPARISON OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 1985
(continued)

AGENCY	1978	1979	1980	1981	1982	1983	1984	1985
Local Governmental Law Enforcement Officers Training Board, Illinois	-	-	-	-	-	4	1	-
Lottery Control Board	-	2	-	-	-	-	-	-
Medical Center Commission	-	1	-	-	-	-	-	-
Mental Health and Developmental Disabilities, Department of	8	13	4	8	3	3	5	8
Military and Naval Department	-	-	-	-	-	-	-	1
Mines and Minerals, Department of	4	-	5	5	6	6	4	7
Mississippi River Parkway Commission	-	-	-	1	-	-	-	-
Natural Resources, Institute of	-	1	1	2	-	-	-	-
Nature Preserves Commission	-	-	-	-	-	1	-	-
Nuclear Safety, Department of	-	-	1	2	3	3	4	3
Nutrition, State Council on	-	-	-	1	-	-	-	-
Personnel, Department of (1)	10	9	9	9	9	-	-	-
Pollution Control Board	18	11	18	13	18	23	21	32
Prisoner Review Board	-	-	-	-	1	-	-	-
Property Tax Appeal Board (8)	-	-	-	-	-	-	-	1
Public Aid, Department of	46	56	47	66	40	86	67	94
Public Health, Department of (5)	42	43	55	44	92	91	53	25
Racing Board, Illinois	10	14	19	10	22	9	7	13
Regents, Board of	-	-	-	2	-	-	-	-
Registration and Education, Department of	11	11	22	15	16	15	26	17
Rehabilitation Services, Department of	-	-	3	1	6	23	28	13
Retirement System of Illinois, State Employees'	2	3	5	3	4	1	2	-
Retirement System of The State of Illinois, Teachers'	-	-	-	-	-	-	-	-
Retirement System, State Universities	-	-	-	-	-	1	-	2
Revenue, Department of (8)	11	16	24	45	14	11	9	7
Savings and Loan Associations, Commissioner of	3	4	1	7	1	1	1	2
Scholarship Commission, State	-	-	-	11	4	2	1	14
Secretary of State	15	21	12	26	14	31	20	19
Select Joint Committee on Regulatory Agency Reform	-	-	-	2	-	-	-	-
State Fair Agency	-	-	-	-	-	-	-	-
State Mandates Board of Appeals	-	-	-	-	1	-	-	-
State Police, Department of (formerly the Department of Law Enforcement)	2	-	1	-	1	-	-	1
Transportation, Department of	13	13	13	17	5	5	10	16
Travel Control Board, Higher Education	-	1	1	1	2	-	-	-

TABLE 14
COMPARISON OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 1985
(continued)

AGENCY	1978	1979	1980	1981	1982	1983	1984	1985
Travel Control Board, Legislative Treasurer	1	1	-	1	-	-	-	-
Veterans' Affairs, Department of	1	1	-	-	-	-	1	1
Visit and Examine State Institutions, Commission to	1	2	2	2	-	1	1	-
	-	-	-	1	-	-	-	-
TOTAL	472	467	556	563	510	585	604	537

- (1) The Department of Personnel and the Department of Administrative Services were combined in 1982, and the name was changed to the Department of Central Management Services.
- (2) The Department of Alcoholism and Substance Abuse, once a division of the Dangerous Drug Commission, became a separate department in 1984.
- (3) The Department of Employment Security, once a bureau within the Department of Labor, became a separate department in 1984.
- (4) A new agency that promulgated rules for the first time in 1985 was the Experimental Organ Transplantation Procedure Board created pursuant to Public Act 83-1274 (effective August 30, 1984) which enacted the Experimental Organ Transplantation Procedures Act (Ill. Rev. Stat. 1984 Supp., ch. 111½, par 6601 et seq.).
- (5) The Department of Public Health and the Health Facilities Planning Board jointly promulgated 2 rules through the general rulemaking process in 1984.
- (6) The Department of Human Rights and the Human Rights Commission jointly promulgated one rule through the general rulemaking process in 1984.
- (7) The State Labor Relations Board and the Local Labor Relations Board joint promulgated 4 rules through the general rulemaking process in 1984.
- (8) The Property Tax Appeal Board, once a division of the Department of Revenue, became a separate department in 1985.

TABLE 13
COMPARISON OF EMERGENCY RULEMAKING BY AGENCY
1980 THROUGH 1985

AGENCY	1980	1981	1982	1983	1984	1985
Aging, Department on	1	1	1	-	-	-
Agriculture, Department of	2	1	-	-	1	2
Alcoholism and Substance Abuse, Department of	-	-	-	-	1	1
Attorney General	-	-	-	-	-	1
Banks and Trust Companies, Commissioner of	3	-	1	-	-	-
Capital Development Board	2	-	-	-	-	1
Central Management Services, Department of	2	-	2	3	13	6
Children and Family Services, Department of	2	-	4	1	-	-
Commerce and Community Affairs, Department of	-	-	-	-	-	6
Commerce Commission, Illinois	5	-	2	5	3	1
Community College Board, Illinois	-	-	-	1	2	-
Comptroller	1	-	-	-	-	-
Conservation, Department of	13	13	3	4	1	7
Corrections, Department of	4	2	15	-	-	-
Criminal Justice Information Authority	-	-	-	-	-	1
Dangerous Drugs Commission	1	-	-	-	-	-
Education, Board of Higher	-	1	-	-	1	-
Education Loan Authority, Illinois Independent Higher	-	-	-	1	-	-
Education, State Board of	3	1	-	3	-	-
Elections, State Board of	4	4	2	1	2	9
Emergency Services and Disaster Agency	-	-	1	-	-	-
Emergency Security, Department of (3)	-	-	-	-	3	-
Environmental Protection Agency	3	2	-	-	2	-
Experimental Organ Transplantation	-	-	-	-	-	-
Procedures Board, Illinois	-	-	-	-	-	1
Farm Development Authority, Illinois	-	-	1	1	1	2
Financial Institutions, Department of	2	2	-	-	-	-
Fire Marshal, Office of the State	1	-	2	1	2	-
Governor's Purchased Care Review Board	1	-	-	-	-	-
Health Coordinating Council, Statewide	-	1	-	-	-	-
Housing Development Authority, Illinois	-	-	-	1	1	1
Human Rights, Department of	1	-	-	-	-	-
Illinois, Board of Trustees of the University of	1	1	2	1	2	-
Industrial Commission	1	1	2	-	1	1
Insurance, Department of	4	2	2	3	1	1
Labor, Department of (3)	1	3	-	3	3	2
Labor Relations Board, Illinois Educational	-	-	-	-	4	-
Labor Relations Board, Illinois Local (4)	-	-	-	-	4	-
Labor Relations Board, Illinois State (4)	-	-	-	-	4	-
Law Enforcement Merit Board, Department of	1	-	-	-	2	-

COMPARISON OF EMERGENCY RULEMAKING BY AGENCY
1980 THROUGH 1985
(continued)

AGENCY	1980	1981	1982	1983	1984	1985
Legislative Information System	1	-	1	1	-	-
Local Governmental Law Enforcement Officers Training Board, Illinois	-	-	-	1	-	-
Mental Health and Developmental Disabilities, Department of	-	1	2	1	-	-
Mines and Minerals, Department of	1	1	3	1	-	-
Nuclear Safety, Department of	-	-	1	-	2	1
Personnel, Department of (2)	4	5	3	-	-	-
Pollution Control Board	1	3	1	1	3	3
Public Aid, Department of	4	2	4	2	6	6
Public Health, Department of	11	1	15	2	2	2
Racing Board, Illinois	2	2	2	2	1	2
Regents, Board of	-	1	-	-	-	-
Registration and Education, Department of	2	2	5	5	6	1
Rehabilitation Services, Department of	-	-	1	-	-	-
Retirement System of Illinois, State Employees' Revenue, Department of	3	1	1	-	1	1
Savings and Loan Associations, Commissioner of	9	2	3	-	1	-
Scholarship Commission, State	1	1	-	-	-	-
Secretary of State	-	1	2	1	-	-
State Mandates Board of Appeals	-	2	1	3	3	6
Transportation, Department of	2	-	1	-	-	1
Treasurer	-	-	-	-	-	1
TOTAL	97	60	84	49	78	73

- (1) The Department of Alcoholism and Substance Abuse, once a division of the Dangerous Drug Commission, became a separate department in 1984.
- (2) The Department of Personnel and the Department of Administrative Services were combined in 1982, and the name was changed to the Department of Central Management Services.
- (3) The Department of Employment Security, once a bureau within the Department of Labor, became a separate department in 1984.
- (4) The State Labor Relations Board and the Local Labor Relations Board joint promulgated 4 rules through the emergency rulemaking process in 1984.

TABLE 10
COMPARISON OF PEREMPTORY RULEMAKING BY AGENCY
1980 THROUGH 1985

AGENCY	1980	1981	1982	1983	1984	1985
Aging, Department on	1	-	-	-	-	-
Agriculture, Department of	-	-	-	-	-	9
Children and Family Services, Department of	-	1	-	-	1	-
Commerce Commission, Illinois	-	-	1	-	-	-
Comptroller	-	-	1	-	-	-
Conservation, Department of	-	-	-	-	-	2
Corrections, Department of	-	1	3	1	-	-
Education, State Board of	7	-	-	1	-	-
Employment Security, Department of (1)	-	-	-	-	-	1
Labor, Department of (1)	-	1	-	-	-	-
Nature Preserves Commission	-	-	1	-	-	-
Pollution Control Board	4	3	7	10	11	9
Public Aid, Department of	5	22	6	3	9	2
Public Health, Department of	-	-	1	-	1	-
Retirement System of Illinois, State Employees'	-	-	-	1	-	-
TOTAL	17	27	21	16	22	23

(1) The Department of Employment Security, once a bureau within the Department of Labor, became a separate department in 1984.

016:ar85

TABLE 17
COMPARISON OF AGENCY RESPONSES
TO OBJECTIONS 1978 THROUGH 1985

	1978	1979	1980	1981	1982	1983	1984	1985
NUMBER OF OBJECTIONS ISSUED	72	65	55	62	99	156*	300*	183*
AGENCY RESPONSES								
Withdrawn or Repeated	14 (19.4%)	2 (3.1%)	5 (9.1%)	10 (16.1%)	10 (10.1%)	9 (5.8%)	40 (16.3%)	2 (1.1%)
Modified or Amended	34 (47.2%)	30 (46.2%)	24 (43.6%)	31 (50.0%)	62 (62.6%)	72 (46.2%)	96 (32.0%)	30 (16.4%)
Refusal	24 (33.3%)	33 (50.8%)	26 (47.3%)	21 (33.9%)	27 (27.3%)	79 (50.6%)	156 (52.0%)	106 (58.0%)
Pending	0	0	0	0	0	0	0	45 (24.5%)

*Note: Number of objections issued is less than the total agency responses as the agency may respond to one objection in more than one way.

018:ar85

THE ILLINOIS ADMINISTRATIVE PROCEDURE ACT

(Codified by West Publishing Company in Illinois Revised Statutes
at chapter 127, paragraphs 1001-1021.)

AN ACT in relation to administrative rules and procedures, and to amend an Act therein named and in connection therewith. (PA 79-1083, approved and effective September 22, 1975)

Section 1. SHORT TITLE) This Act shall be known and may be cited as "The Illinois Administrative Procedure Act." (PA 79-1083)

Section 2. APPLICABILITY) This Act applies to every agency as defined herein. Beginning January 1, 1978 in case of conflict between the provisions of this Act and the Act creating or conferring power on an agency, this Act shall control. However if an agency has existing procedures on July 1, 1977 specifically for contested cases or licensing those existing provisions control, except that this exception respecting contested cases and licensing does not apply if the Act creating or conferring power on the agency adopts by express reference the provision of this Act. Where the Act creating or conferring power on an agency establishes administrative procedures not covered by this Act, such procedures shall remain in effect.

The provisions of this Act shall not apply to (1) preliminary hearings, investigations or practices where no final determinations affecting State funding are made by the State Board of Education, (2) legal opinions issued under Section 2-3.7 of The School Code, (3) as to State colleges and universities, their disciplinary and grievance proceedings, academic irregularity and capricious grading proceedings, and admission standards and procedures, and (4) the class specifications for positions and individual position descriptions prepared and maintained pursuant to the "Personnel Code"; however such specifications shall be made reasonably available to the public for inspection and copying. Neither shall the provisions of this Act apply to hearings under Section 20 of the "Uniform Disposition of Unclaimed Property Act."

Pay rates established pursuant to Section 6a of the Personnel Code shall be amended or repealed pursuant to the process set forth in Section 5.03 within 30 days after it becomes necessary to do so due to a conflict between the rates and the terms of a collective bargaining agreement covering the compensation of an employee subject to that Code. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977; Amended by PA 80-1457, effective January 1, 1979; Amended by PA 81-1514, effective January 1, 1981; Amended by PA 83-0691, effective November 2, 1983; Amended by PA 84-22, effective July 18, 1985; Amended by PA 84-469, effective January 1, 1986)

Section 3. DEFINITIONS) As used in this Act, unless the context otherwise requires, the terms specified in Section 3.01 through 3.10 have the meanings ascribed to them in those Sections. (PA 79-1083; Amended by PA 82-0783, effective July 13, 1982)

Section 3.01. AGENCY) "Agency" means each officer, board, commission and agency created by the Constitution, whether in the executive, legislative, or judicial branch of State government, but other than the circuit court; each officer, department, board, commission, agency, institution, authority, university, body politic and corporate of the State; and each administrative unit or corporate outgrowth of the State government which is created by or pursuant to statute, other than units of local government and their officers, school districts and boards of election commissioners; each administrative unit or corporate outgrowth of the above and as may be created by executive order of the Governor. However, "agency" does not include:

- (a) the House of Representatives and Senate, and their respective standing and service committees;
- (b) the Governor; and
- (c) the justices and judges of the Supreme and Appellate Courts.

No entity shall be considered an "agency" for the purposes of this Act unless authorized by law to make rules or to determine contested cases. (PA 79-1083; Amended by PA 80-1457, effective January 1, 1979)

Section 3.02. CONTESTED CASE) "Contested case" means an adjudicatory proceeding, not including rate-making, rulemaking, quasi-legislative, informational or similar proceedings, in which the individual legal rights, duties or privileges of a party are required by law to be determined by an agency only after an opportunity for hearing. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977)

Section 3.03. HEARING EXAMINER) "Hearing examiner" means the presiding officer or officers at the initial hearing before each agency and each continuation thereof. (PA 79-1083)

Section 3.04. LICENSE) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law, but it does not include a license required solely for revenue purposes. (PA 79-1083)

Section 3.05. LICENSING) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license. (PA 79-1083)

Section 3.06. PARTY) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. (PA 79-1083)

Section 3.07. PERSON) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency. (PA 79-1083)

Section 3.08. RATE-MAKING OR RATE-MAKING ACTIVITIES) "Rate-making" or "Rate-making activities" means the establishment or review of or other exercise of control over the rates or charges for the

products or services of any person, firm or corporation operating or transacting any business in this State. (PA 79-1083)

Section 3.09. RULE) "Rule" means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or entities outside the agency, (b) informal advisory rulings issued pursuant to Section 9, (c) intra-agency memoranda or (d) the prescription of standardized forms. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977)

Section 3.10. SMALL BUSINESS) For the purpose of this Act, "small business" means a concern, including its affiliates, which is independently owned and operated, not dominant in its field and which employs fewer than 50 full-time employees or which has gross annual sales of less than \$4 million. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations. (Added by PA 82-492, effective January 1, 1982)

Section 4. ADOPTION OF RULES: PUBLIC INFORMATION, AVAILABILITY OF RULES) (a) In addition to other rulemaking requirements imposed by law, each agency shall:

1. adopt rules of practice setting forth the nature and requirements of all formal hearings;
2. make available for public inspection all rules adopted by the agency in the discharge of its functions.

(b) Each agency shall make available for public inspection all final orders, decisions and opinions, except those deemed confidential by state or federal statute and any trade secrets.

(c) No agency rule is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection and filed with the Secretary of State as required by this Act. However, no Agency shall assert the invalidity of a rule which it has adopted pursuant to this Act when an opposing party has relied upon such rule. (Amended by P.A. 83-1387, effective January 1, 1985; Amended by P.A. 83-1453, effective January 1, 1985)

(d) Rulemaking which creates or expands a State mandate on units of local government, school districts, or community college districts is subject to the State Mandates Act. The required Statement of Statewide Policy Objectives shall be published in the Illinois Register at the same time that the first notice under Section 5.01 is published or when the rule is published under Section 5.02 or 5.03. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977; Amended by PA 81-1562, effective January 16, 1981)

Section 4.01 REQUIRED RULES) (a) Each agency shall maintain as rules the following:

1. a current description of the agency's organization with necessary charts depicting same;
2. the current procedures on how the public can obtain information or make submissions or requests on subjects, programs, and activities of the agency;
3. tables of contents, indices, reference tables, and other materials to aid users in finding and using the agency's collection of rules currently in force; and
4. a current description of the agency's rulemaking procedures with necessary flow charts depicting same.

(b) The rules required to be filed by this Section may be adopted, amended, or repealed and filed as provided in this Section in lieu of any other provisions or requirements of this Act.

The rules required by this Section may be adopted, amended, or repealed by filing a certified copy with the Secretary of State as provided by paragraphs (a) and (b) of Section 6, and may become effective immediately. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 81-1044, effective October 1, 1979)

Section 4.02. RULES IMPLEMENTING DISCRETIONARY POWERS: STANDARDS) Each rule which implements a discretionary power to be exercised by an agency shall include the standards by which the agency shall exercise the power. Such standards shall be stated as precisely and clearly as practicable under the conditions, to inform fully those persons affected. (Added by PA 81-1129, effective July 1, 1980)

Section 4.03. SMALL BUSINESS FLEXIBILITY) When an agency proposes a new rule, or an amendment to an existing rule, which may have an impact on small businesses, the agency shall do each of the following: (a) The agency shall consider each of the following methods for reducing the impact of the rulemaking on small businesses. The agency shall reduce the impact by utilizing one or more of the following methods, if it finds that the methods are legal and feasible in meeting the statutory objectives which are the basis of the proposed rulemaking.

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards to replace design or operational standards in the rule for small businesses.
5. Exempt small businesses from any or all requirements of the rule.

(b) Prior to or during the notice period required under Section 5.01(a) of this Act, the agency shall provide an opportunity for small businesses to participate in the rulemaking process. The Agency shall utilize one or more of the following techniques. These techniques are

in addition to other rulemaking requirements imposed by this Act or by any other Act.

1. The inclusion in any advance notice of possible rulemaking of a statement that the rule may have an impact on small businesses.
2. The publication of a notice of rulemaking in publications likely to be obtained by small businesses.
3. The direct notification of interested small businesses.
4. The conduct of public hearings concerning the impact of the rule on small businesses.
5. The use of special hearing or comment procedures to reduce the cost or complexity of participation in the rulemaking by small businesses.

(c) Prior to the notice period required under Section 5.01(a) of this Act, the agency shall notify the Business Assistance Office of the Department of Commerce and Community Affairs when rules affect businesses. The Business Assistance Office shall prepare an impact analysis of the rule describing its effect on small businesses. The impact analysis shall be completed within the notice period as described in subsection (a) of Section 5.01. Upon completion of the analysis the Business Assistance Office shall submit this analysis to both the Joint Committee on Administrative Rules and to the agency proposing the rule. The impact analysis shall contain the following:

1. A summary of the projected reporting, recordkeeping and other compliance requirements of the proposed rule.
2. A description of the types and an estimate of the number of small businesses to which the proposed rule will apply.
3. An estimate of the economic impact which the regulation will have on the various types of small businesses affected by the rulemaking.
4. A description of or a listing of alternatives to the proposed rule which would minimize the economic impact of the rule. Such alternative must be consistent with the stated objectives of the applicable statutes and regulations.

(Added by PA 82-492, effective January 1, 1982; Amended by PA 83-1341, effective September 7, 1984)

Section 5. PROCEDURE FOR RULEMAKING (a) Prior to the adoption, amendment or repeal of any rule, each agency shall accomplish the actions required by Sections 5.01, 5.02 or 5.03, whichever is applicable.

(b) No action by any agency to adopt, amend or repeal a rule after this Act has become applicable to the agency shall be valid unless taken in compliance with this Section. A proceeding to contest any rule on the ground of non-compliance with the procedural requirements of this Section must be commenced within 2 years from the effective date of the rule.

(c) The notice and publication requirements of this Section do not apply to a matter relating solely to agency management, personnel practices, or to public property, loans or contracts. (PA 79-1683;

Section 5a. REGULATORY AGENDA) An agency may submit for publication in the Illinois Register a regulatory agenda to elicit public comments concerning any rule which the agency is considering proposing but for which no notice or proposed rulemaking activity has been submitted to the Illinois Register. A regulatory agenda shall consist of summaries of such rules. Each summary shall, in less than 2,000 words contain insofar as practicable:

- (a) a description of the rule;
- (b) the statutory authority the agency is exercising;
- (c) a schedule of the dates for any hearings, meetings or other opportunities for public participation in the development of the rule;
- (d) the date the agency anticipates submitting a notice of proposed rulemaking activity, if known;
- (e) the name, address and telephone number of the agency representative, knowledgeable on such rule, from whom any information may be obtained and to whom written comments may be submitted concerning such rule;
- (f) a statement as to whether the rule will affect small businesses as defined in this Act; and
- (g) any other information which may serve the public interest.

Nothing in this Section shall preclude an agency from adopting a rule which has not been summarized in a regulatory agenda or from adopting a rule different than one summarized in a regulatory agenda; nothing in this Section shall require an agency to adopt a rule summarized in a regulatory agenda. The Secretary of State shall adopt rules necessary for the publication of a regulatory agenda, including but not limited to standard submission forms and deadlines. (Added by PA 84-954, effective July 1, 1986)

Section 5.01. GENERAL RULEMAKING) In all rulemaking to which Sections 5.02 and 5.03 do not apply, each agency shall:

(a) give at least 45 days' notice of its intended action to the general public. This first notice period shall commence on the first day the notice appears in the Illinois Register. The first notice shall include:

1. The text of the proposed rule, or the old and new materials of a proposed amendment, or the text of the provision to be repealed;
2. The specific statutory citation upon which the proposed rule, the proposed amendment to a rule or the proposed repeal of a rule is based and is authorized;
3. A complete description of the subjects and issues involved;
4. For all proposed rules and proposed amendments to rules, an initial regulatory flexibility analysis, which shall contain a description of the types of small businesses subject to the rule; a brief description of the proposed reporting, bookkeeping, and other procedures required for compliance with the rule; and a

description of the types of professional skills necessary for compliance; and

5. The time, place and manner in which interested persons may present their views and comments concerning the proposed rulemaking.

During the first notice period, the agency shall provide all interested persons who submit a request to comment within the first 14 days of the notice period reasonable opportunity to submit data, views, arguments or comments; which may, in the discretion of the agency, be submitted either orally or in writing or both. The notice published in the Illinois Register shall indicate the manner selected by the agency for such submissions. The agency shall consider all submissions received.

The agency shall hold a public hearing on the proposed rulemaking, during the first notice period, in the following cases: (1) the agency finds that a public hearing would facilitate the submission of views and comments which might not otherwise be submitted; (2) the agency receives a request for a public hearing, within the first 14 days after publication of the notice of proposed rulemaking in the Illinois Register, from 25 interested persons, an association representing at least 100 interested persons, the Governor, the Joint Committee on Administrative Rules, or a unit of local government which may be affected. At the public hearing, the agency shall allow interested persons to present views and comments on the proposed rulemaking. Such a public hearing in response to a request for a hearing may not be held less than 20 days after the publication of the notice of proposed rulemaking in the Illinois Register, unless notice of the public hearing is included in the notice of proposed rulemaking. A public hearing on proposed rulemaking may not be held less than 10 days before submission of the notice required under paragraph (b) of this Section to the Joint Committee on Administrative Rules. Each agency may prescribe reasonable rules for the conduct of public hearings on proposed rulemaking to prevent undue repetition at such hearings. Such hearings must be open to the public and recorded by stenographic or mechanical means.

(b) provide up to 45 days additional notice of the proposed rulemaking to the Joint Committee on Administrative Rules. The second notice period shall commence on the day written notice is received by the Joint Committee, and shall expire 45 days thereafter unless prior to that time the agency shall have received a statement of objection from the Joint Committee, or notification from the Joint Committee that no objection will be issued. The written notice to the Joint Committee shall include: (1) the text and location of any changes made to the proposed rulemaking during the first notice period; (2) for all proposed rules and proposed amendments to rules, a final regulatory flexibility analysis, which shall contain a summary of issues raised by small businesses during the first notice period; and a description of actions taken on any alternatives to the proposed rule suggested by small businesses during the first notice period, including reasons for rejecting any alternatives not utilized; and (3) if written request has been made by the Joint Committee within 30 days after initial notice appears in the Illinois Register pursuant to Paragraph (a) of this

Section, an analysis of the economic and budgetary effects of the proposed rulemaking. After commencement of the second notice period, no substantive change may be made to a proposed rulemaking unless it is made in response to an objection or suggestion of the Joint Committee. The agency shall also send a copy of the final regulatory flexibility analysis to each of the small businesses which have presented views or comments on the proposed rulemaking during the first notice period and to any interested person who requests a copy during the first notice period. The agency may charge a reasonable fee for providing such copies to cover postage and handling costs.

(c) after the expiration of 45 days, after notification from the Joint Committee that no objection will be issued, or after response by the agency to a statement of objections issued by the Joint Committee, whichever is applicable, the agency shall file, pursuant to Section 6 of this Act, a certified copy of each rule, modification, or repeal of any rule adopted by it, which shall be published in the Illinois Register. Each rule hereafter adopted under this Section is effective upon filing, unless a later effective date is required by statute or is specified in the rule.

(d) no rule or modification or repeal of any rule may be adopted, or filed with the Secretary of State, more than one year after the date the first notice period for the rulemaking under paragraph (a) commenced. Any period during which the rulemaking is prohibited from being filed under Section 7.06a shall not be considered in calculating this one-year time period. In addition, no rule or modification which contains an incorporation by reference under subsection (b) of Section 6.02 may be adopted and filed with the Secretary of State pursuant to paragraph (c) of Section 5.01 and Section 6 of this Act unless the agency adopting and filing the rule is in receipt of written approval from the Joint Committee on Administrative Rules. This paragraph (d) applies to any rule or modification or repeal of any rule which has not been filed with the Secretary of State prior to the effective date of this amendatory Act of 1981. (Added by PA 81-1044, effective October 1, 1979; Amended by PA 82-242, effective January 1, 1982; Amended by PA 82-492, effective January 1, 1982; Amended by PA 82-783, effective July 13, 1982; Amended by PA 84-784, effective January 1, 1986)

Section 5.02. EMERGENCY RULEMAKING) "Emergency" means the existence of any situation which any agency finds reasonably constitutes a threat to the public interest, safety or welfare. Where any agency finds that an emergency exists which requires adoption of a rule upon fewer days than is required by Section 5.01, and states in writing its reasons for that finding, the agency may adopt an emergency rule without prior notice or hearing, upon filing a notice of emergency rulemaking with the Secretary of State pursuant to Section 6.01 of this Act. Such notice shall include the text of the emergency rule and shall be published in the Illinois Register. Consent orders or other court orders adopting settlements negotiated by an agency may be adopted pursuant to this Section. Subject to applicable constitutional or statutory provisions, an emergency rule becomes effective immediately upon filing pursuant to Section 6, or at a stated date less than 10 days thereafter. The agency's finding and a statement of the specific reasons therefor shall be filed with the rule. The agency shall take

reasonable and appropriate measures to make emergency rules known to the persons who may be affected by them.

An emergency rule may be effective for a period of not longer than 150 days, but the agency's authority to adopt an identical rule under Section 5.01 of this Act is not precluded. No emergency rule may be adopted more than once in any 24 month period, except that this limitation on the number of emergency rules which may be adopted in a 24 month period does not apply to emergency rules which make additions to and deletions from the Drug Manual pursuant to Section 5-5.16 of The Illinois Public Aid Code. Two or more emergency rules having substantially the same purpose and effect shall be deemed to be a single rule for purposes of this Section. (Added by PA 81-1044, effective October 1, 1979; Amended by PA 84-22, effective July 18, 1985; Amended by PA 84-576, effective January 1, 1986)

Section 5.03. PEREMPTORY RULEMAKING) "Peremptory rulemaking" means any rulemaking which is required as a result of federal law, federal rules and regulations, or an order of a court, under conditions which preclude compliance with general rulemaking requirements imposed by Section 5.01 and which preclude the exercise of discretion by the agency as to the content of the rule it is required to adopt. Peremptory rulemaking shall not be used to implement consent orders or other court orders adopting settlements negotiated by the agency. Where any agency finds that peremptory rulemaking is necessary and states in writing its reasons for that finding, the agency may adopt peremptory rulemaking upon filing a notice of rulemaking with the Secretary of State pursuant to Section 6.01 of this Act. Such notice shall be published in the Illinois Register. A rule adopted under the peremptory rulemaking provisions of this Section becomes effective immediately upon filing with the Secretary of State and in the agency's principal office, or at a date required or authorized by the relevant federal law, federal rules and regulations, or court order, as stated in the notice of rulemaking. Notice of rulemaking under this Section shall be published in the Illinois Register, and shall specifically refer to the appropriate state or federal court order or federal law, rules and regulations, and shall be in such form as the Secretary of State may reasonably prescribe by rule. The agency shall file the notice of peremptory rulemaking within 30 days after a change in rules is required. (Added by PA 81-1044, effective October 1, 1979; Amended by PA 84-576, effective January 1, 1986; Amended by PA-784, effective January 1, 1986)

Section 5.04. AUTOMATIC REPEAL OF RULES. A rule may provide for its automatic repeal on a date specified in the rule. The repeal shall be effective on the date specified, provided that notice of the repeal is published in the Illinois Register not less than 30 nor more than 60 days prior to the effective date of the repeal. This section shall not apply to any rules filed pursuant to Section 5.02 of this Act. (Added by P.A. 83-1387, effective January 1, 1985)

Section 6. FILING OF RULES) (a) Each agency shall file in the office of the Secretary of State and in the agency's principal office a certified copy of each rule and modification or repeal of any rule adopted by it. The Secretary of State and the agency shall each keep a permanent register of the rules open to public inspection.

(b) Concurrent with the filing of any rule pursuant to this Section, the filing agency shall submit to the Secretary of State for publication in the next available issue of the Illinois Register a notice of adopted rules. Such notice shall include:

1. The text of the adopted rule, which shall include: if the material is a new rule, the full text of the new rule; or if the material is an amendment to a rule or rules, the full text of the rule or rules as amended; or if the material is a repealer, such notice of repeal.
2. The name, address and telephone number of an individual who will be available to answer questions and provide information to the public concerning the adopted rules.
3. Such other information as the Secretary of State may by rule require in the interest of informing the public. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1979; Amended by PA 81-1044, effective October 1, 1979; Amended by PA 82-298, effective January 1, 1982)

Section 6.01. FORM AND PUBLICATION OF NOTICES) The Secretary of State may prescribe reasonable rules concerning the form of documents to be filed with him, and may refuse to accept for filing such certified copies as are not in compliance with such rules. In addition, the Secretary of State shall publish and maintain the Illinois Register and may prescribe reasonable rules setting forth the manner in which agencies shall submit notices required by this Act for publication in the Illinois Register. The Illinois Register shall be published at least once each week on the same day unless such day is an official State holiday in which case the Illinois Register shall be published on the next following business day and sent to subscribers who subscribe for the publication with the Secretary of State. The Secretary of State may charge a subscription price to subscribers that covers mailing and publication costs. (Added by PA 81-1044, effective October 1, 1979; Amended by PA 82-689, effective July 1, 1982; Amended by PA 83-638, effective September 21, 1983)

Section 6.02. INCORPORATION BY REFERENCE) (a) An agency may incorporate by reference, in its rules adopted in accordance with Section 5 of this Act, rules and regulations of an agency of the United States or rules, regulations, standards and guidelines of a nationally recognized organization or association without publishing the incorporated material in full. The reference in the agency rules must fully identify the incorporated matter by location and date, and must state that the rule, regulation, standard or guideline does not include any later amendments or editions. The agency adopting the rule, regulation, standard or guideline shall maintain a copy of the referenced rule, regulation, standard or guideline and shall make it available to the public upon request for inspection and copying at no more than cost. An agency may also at its discretion file a copy of referenced rule, regulation, standard or guideline with the State Library. An agency may incorporate by reference such matters in its rules only if the agency, organization or association originally issuing the matter makes copies readily available to the public. This section shall not apply to any agency internal manual.

(b) As provided by this subsection, an agency may incorporate by reference in its rules adopted in accordance with Section 5.01 of this Act guidelines or standards of an agency of the United States, without publishing the incorporated material in full, provided that the incorporated material is readily available to the public. The reference in the agency rules must fully identify the incorporated matter by location and date, and must state that the guideline or standard does not include any later amendments or editions. An agency may incorporate by reference such matters in its rules only if the agency of the United States issuing or distributing the matter, or the organization, association or other entity acting on behalf of the agency of the United States makes copies readily available to the public. The agency adopting the rule shall maintain a copy of the referenced guideline or standard and shall make it available to the public upon request for inspection and copying at no more than cost. An agency may also at its discretion file a copy of referenced guidelines or standards with the State Library. Use of the incorporation by reference procedure under this subsection (b) must be approved by the Joint Committee on Administrative Rules prior to the submission of the written notice required pursuant to paragraph (b) of Section 5.01 of this Act. An agency seeking to adopt a rule containing incorporation by reference under this subsection (b) shall submit a written request to the Joint Committee on Administrative Rules. In determining whether to approve an incorporation by reference, the Joint Committee shall use the following standard: whether or not the material sought to be incorporated is readily available for public inspection. No rule which contains an incorporation by reference pursuant to this subsection (b) may be accepted by the Secretary of State for adoption and filing pursuant to paragraph (c) of Section 5.01 and Section 6 of this Act, unless the agency is in receipt of written approval from the Joint Committee on Administrative Rules. (Added by PA 83-638, effective September 21, 1983; Amended by PA 84-784, effective January 1, 1986)

Section 7. CODIFICATION OF RULES - PUBLICATION (a) The Secretary of State shall, by rule, prescribe a uniform system for the codification of rules on or before July 1, 1980. The Secretary of State shall also, by rule, establish a schedule for compliance with the uniform codification system on or before October 1, 1980. Such schedule may be by sections of the codification system and shall require approximately one-fourth of the rules to be converted to the codification system by each October 1, starting in 1981 and ending in 1984. All rules on file with the Secretary of State and in effect on October 1, 1984, shall be in compliance with the uniform system for the codification of rules. Rules not so codified as of October 1, 1984, are void, shall be withdrawn by the Secretary of State from the permanent register of the rules, and shall not be published by the Secretary of State in either the Illinois Administrative Code or in the Illinois Register. The Secretary of State shall not adopt any codification system or schedule under this subsection without the approval of the Joint Committee on Administrative Rules. Approval by the Joint Committee shall be conditioned solely upon establishing that the proposed codification system and schedule are compatible with existing electronic data processing equipment and programs maintained by and for the General Assembly. Nothing in this Section shall prohibit an agency from

adopting rules in compliance with the codification system earlier than specified in the schedule.

(b) If no substantive changes are made by the agency in amending existing rules to comply with the codification system, such codified rules may be adopted until October 1, 1984, without requiring notice or publication of the text of rules pursuant to Section 5. In such a case, the publication requirement shall be satisfied by the publication in the Illinois Register of a notice stating that the agency has adopted the rules to comply with the codification system, that no substantive changes have been made in the rules and that the State Library has reviewed and approved the codification of the rules. The notice shall include the current names and numbers of the rules being codified, an outline of the headings of the sections of the rules as codified and may also include a table indicating the relationship between any rule numbers previously used by the agency and the numbering system of the codified rules. The agency shall provide the text of such rules as codified to the State Library for review and necessary changes and recommendations at least 30 days prior to the publication of such notice. Whenever the codification of an emergency or peremptory rule is changed subsequent to its publication as adopted in the Illinois Register, a notice of such change, in the manner set forth in this subsection, shall be published in the next available issue of the Illinois Register. Such a change in the rule's codification shall not affect its validity or the date upon which it became effective.

(c) Each rule proposed in compliance with the codification system shall be reviewed by the State Library under the Secretary of State prior to the expiration of the public notice period provided by Section 5.01 (a) of this Act or prior to the publication of the notice required under subsection (b) of this section. The State Library shall cooperate with agencies in its review to insure that the purposes of the codification system are accomplished. The State Library shall have the authority to make changes in the numbering and location of the rule in the codification scheme, providing such changes do not affect the meaning of the rules. The State Library may recommend changes in the sectioning and headings proposed by the agency and suggest grammatical and technical changes to correct errors. The State Library may add notes concerning the statutory authority, dates proposed and adopted and other similar notes to the text of the rules, if such notes are not supplied by the agency. This review by the State Library shall be for the purpose of insuring the uniformity of and compliance with the codification system. The State Library shall prepare indexes by agency, subject matter, and statutory authority and any other necessary indexes, tables and other aids for locating rules to assist the public in the use of the Code.

(d) The State Library shall make available to the agency and the Joint Committee on Administrative Rules copies of the changes in the numbering and location of the rule in the codification scheme, the recommended changes in the sectioning and headings, and the suggestions made concerning the correction of grammatical and technical errors or other suggested changes. The agency shall in the notice required by Section 5.01(b) of this Act, or if such notice is not required, at least 10 days prior to the publication of the notice

required under subsection (b) of this Section, provide to the Joint Committee a response to the recommendations of the State Library including any reasons for not adopting the recommendations.

(e) In the case of reorganization of agencies, transfer of functions between agencies, or abolishment of agencies by executive order or law, which affects rules on file with the Secretary of State, the State Library shall notify the Governor, the Attorney General, and the agencies involved of the effects upon such rules on file. If the Governor or the agencies involved do not respond to the State Library's notice within 45 days by instructing the State Library to delete or transfer the rules, the State Library may delete or place such rules under the appropriate agency for the purpose of insuring the consistency of the codification scheme and shall notify the Governor, the Attorney General and the agencies involved.

(f) The Secretary of State shall publish an Illinois Administrative Code as effective January 1, 1985. The code shall be published on or before June 1, 1985, and the Secretary of State shall update each section of the Code at least annually thereafter. Such Code shall contain the complete text of all rules of all State agencies filed with his office and effective on October 1, 1984, or later and the indexes, tables, and other aids for locating rules prepared by the State Library. The Secretary of State shall design the Illinois Register to supplement such Code. The Secretary of State shall make copies of the Code available generally at a price covering publication and mailing costs.

(g) The publication of a rule in the Code or in the Illinois Register as an adopted rule shall establish a rebuttable presumption that the rule was duly filed and that the text of the rule as published in the Code is the text of the rule as adopted. Publication of the text of a rule in any other location whether by the agency or some other person shall not be taken as establishing such presumption. Judicial notice shall be taken of the text of each rule published in the Code or Register.

(h) The codification system, the indexes, tables, and other aids for locating rules prepared by the State Library, notes and other materials developed under this Section in connection with the publication of the Illinois Administrative Code shall be the property of the State. No person may attempt to copyright or publish for sale such materials except the Secretary of State as provided in this Section. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977; Amended by PA 80-1457, effective January 1, 1979; Amended by PA 81-1348, effective July 16, 1980; Amended by PA 83-555, effective January 1, 1984; Amended by PA 83-556, effective January 1, 1984; Amended by PA 83-1362, effective September 11, 1984)

Section 7.01. CERTIFICATION OF RULES FILED WITH THE SECRETARY OF STATE) (a) Beginning January 1, 1978, whenever a rule, or modification or repeal of any rule, is filed with the Secretary of State, the Secretary of State within three working days after such filing shall send a certified copy of such rule, modification or repeal to the Joint Committee on Administrative Rules established in Section 7.02.

(b) Any rule on file with the Secretary of State on January 1, 1978 shall be void 60 days after that date unless within such 60 day period the issuing agency certifies to the Secretary of State that the rule is currently in effect.

Within 45 days after the receipt of any certification pursuant to this sub-section (b), the Secretary of State shall send to the Joint Committee on Administrative Rules established in Section 7.02 a copy of each agency's certification so received along with a copy of the rules covered by the certification. (Added by PA 80-1035, effective September 27, 1977)

Section 7.02. ESTABLISHMENT AS LEGISLATIVE SUPPORT SERVICES AGENCY - AGENDA - PUBLICATION OF INFORMATION - FEES) The Joint Committee on Administrative Rules is established as a legislative support services agency subject to the Legislative Commission Reorganization Act of 1984.

When feasible the agenda of each meeting of the Joint Committee shall be submitted to the Secretary of State to be published at least 5 days prior to the meeting in the Illinois Register. The Joint Committee may also weekly, or as often as necessary, submit for publication in the Illinois Register lists of the dates on which notices under Section 5.01 of this Act were received and the dates on which the proposed rulemakings will be considered. The provisions of this subsection shall not prohibit the Joint Committee from acting upon an item that was not contained in the published agenda.

The Joint Committee may charge reasonable fees for copies of documents or publications to cover the cost of copying or printing. However, the Joint Committee shall provide copies of documents or publications without cost to agencies which are directly affected by recommendations or findings included in such documents or publications. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 80-1457, effective January 1, 1979; Amended by PA 82-372, effective September 2, 1981; Amended by PA 83-638, effective September 21, 1983; Amended by PA 83-1257, effective August 15, 1984)

Section 7.03. ADMINISTRATION OF OATHS OR AFFIRMATIONS - AFFIDAVITS OR DEPOSITIONS - SUBPOENA) (a) The Executive Director of the Joint Committee or any person designated by him may administer oaths or affirmations, take affidavits or depositions of any person.

(b) The Executive Director, upon approval of a majority vote of the Joint Committee, or the presiding officers may subpoena and compel the attendance before the Joint Committee and examine under oath any person, or the production for the Joint Committee of any records, books, papers, contracts or other documents.

If any person fails to obey a subpoena issued under this Section, the Joint Committee may apply to any circuit court to secure compliance with the subpoena. The failure to comply with the order of the court issued in response thereto shall be punished as a contempt. (Added by PA 80-1035, effective September 27, 1977)

Section 7.04. POWERS OF JOINT COMMITTEE) The Joint Committee shall have the following powers under this Act:

1. The function of the Joint Committee shall be the promotion of adequate and proper rules by agencies and an understanding on the part of the public respecting such rules. Such function shall be advisory only, except as provided in Sections 7.06a and 7.07a.

2. The Joint Committee may undertake studies and investigations concerning rulemaking and agency rules.

3. The Joint Committee shall monitor and investigate compliance of agencies with the provisions of this Act, make periodic investigations of the rulemaking activities of all agencies, and evaluate and report on all rules in terms of their propriety, legal adequacy, relation to statutory authorization, economic and budgetary effects and public policy.

4. Hearings and investigations conducted by the Joint Committee under this Act may be held at such times and places within the State as such Committee deems necessary.

5. The Joint Committee shall have the authority to request from any agency an analysis of the:

a. effect of a new rule, amendment or repealer, including any direct economic effect on the persons regulated by the rule; any anticipated effect on the proposing agency's budget and the budgets of other State agencies; and any anticipated effects on State revenues;

b. agency's evaluation of the submissions presented to the agency pursuant to Section 5.01 of this Act;

c. a description of any modifications from the initially published proposal made in the finally accepted version of the intended rule, amendment or repealer;

d. agency's justification and rationale for the intended rule, amendment or repealer.

6. Failure of the Joint Committee to object to any proposed rule, amendment, or repealer or any existing rule shall not be construed as implying direct or indirect approval of the rule or proposed rule, amendment, or repealer by the Joint Committee or the General Assembly. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 80-1044, effective October 1, 1978; Amended by PA 81-1035, effective January 1, 1980; Amended by PA 81-1514, effective January 1, 1981)

Section 7.05. RESPONSIBILITIES OF JOINT COMMITTEE) The Joint Committee shall have the following responsibilities under this Act:

1. The Joint Committee shall conduct a systematic and continuing study of the rules and rulemaking process of all state agencies, including those agencies not covered in Section 3.01 of this Act, for the purpose of improving the rulemaking process, reducing the number and bulk of rules, removing redundancies and unnecessary repetitions and correcting grammatical, typographical and like errors not affecting

the construction or meaning of the rules, and it shall make recommendations to the appropriate affected agency.

2. The Joint Committee shall review the statutory authority on which any administrative rule is based.

3. The Joint Committee shall maintain a review program, to study the impact of legislative changes, court rulings and administrative action on agency rules and rulemaking.

4. The Joint Committee shall suggest rulemaking of an agency whenever the Joint Committee, in the course of its review of the agency's rules under this Act, determines that the agency's rules are incomplete, inconsistent or otherwise deficient. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 81-1044, effective October 1, 1979)

Section 7.06. EXAMINATION OF PROPOSED RULE, AMENDMENT OR REPEAL OF RULE BY THE JOINT COMMITTEE - DETERMINATIONS - EVALUATION OF STATE FORMS) (a) The Joint Committee may examine any proposed rule, amendment to a rule, and repeal of a rule for the purpose of determining whether the proposed rule, amendment to a rule, or repeal of a rule is within the statutory authority upon which it is based, whether the rule, amendment to a rule or repeal of a rule is in proper form and whether the notice was given prior to its adoption, amendment, or repeal and was sufficient to give adequate notice of the purpose and effect of the rule, amendment or repeal. In addition, the Joint Committee may consider whether the agency has considered alternatives to the rule which are consistent with the stated objectives of both the applicable statutes and regulations, and whether the rule is designed to minimize economic impact on small businesses.

(b) If the Joint Committee objects to a proposed rule, amendment to a rule, or repeal of a rule, it shall certify the fact to the issuing agency and include with the certification a statement of its specific objections.

(c) If within 45 days after notice of proposed rulemaking has been received by the Joint Committee, the Joint Committee certifies its objections to the issuing agency then that agency shall within 90 days of receipt of the statement of objection:

1. modify the proposed rule, amendment or repealer to meet the Joint Committee's objections;
2. withdraw the proposed rule, amendment, or repealer in its entirety, or;
3. refuse to modify or withdraw the proposed rule, amendment or repealer.

(d) If an agency elects to modify a proposed rule, amendment or repealer to meet the Joint Committee's objections, it shall make such modifications as are necessary to meet the objections and shall resubmit the rule, amendment or repealer to the Joint Committee. In addition, the agency shall submit a notice of its election to modify the proposed rule, amendment or repealer to meet the Joint Committee's objections to the Secretary of State, which notice shall be published in the first available issue of the Illinois Register, but the agency shall not be required to conduct a public hearing. If the Joint Committee

determines that the modifications do not remedy the Joint Committee's objections, it shall so notify the agency in writing and shall submit a copy of such notification to the Secretary of State for publication in the next available issue of the Illinois Register. In addition, the Joint Committee may recommend legislative action as provided in subsection (g) for agency refusals.

(e) If an agency elects to withdraw a proposed rule, amendment or repealer as a result of the Joint Committee's objections, it shall notify the Joint Committee, in writing, of its election and shall submit a notice of the withdrawal to the Secretary of State which shall be published in the next available issue of the Illinois Register.

(f) Failure of an agency to respond to the Joint Committee's objections to a proposed rule, amendment or repealer, within the time prescribed in subsection (c) shall constitute withdrawal of the proposed rule, amendment or repealer in its entirety. The Joint Committee shall submit a notice to that effect to the Secretary of State which shall be published in the next available issue of the Illinois Register and the Secretary of State shall refuse to accept for filing a certified copy of such proposed rule, amendment or repealer under the provisions of Section 6.

(g) If an agency refuses to modify or withdraw the proposed rule, amendment or repealer so as to remedy an objection stated by the Joint Committee, it shall notify the Joint Committee in writing of its refusal and shall submit a notice of refusal to the Secretary of State which shall be published in the next available issue of the Illinois Register. If the Joint Committee decides to recommend legislative action in response to an agency refusal, then the Joint Committee shall have drafted and have introduced into either house of the General Assembly appropriate legislation to implement the recommendations of the Joint Committee.

(h) No rule, amendment or repeal of a rule shall be accepted by the Secretary of State for filing under Section 6, if such rulemaking is subject to this Section, until after the agency has responded to the objections of the Joint Committee as provided in this Section.

(i) The Joint Committee shall evaluate and analyze all State forms which have been developed or revised after the effective date of this amendatory Act of 1984 to ascertain the burden, if any, of complying with such forms by small businesses. Such evaluation and analysis shall occur during the Joint Committee's review conducted pursuant to Section 7.06 of this Act. In the event the Joint Committee determines that any such form is unduly burdensome to small businesses the Joint Committee may object to such form or make specific recommendations for change in such form. Objections to such forms shall be made in the manner prescribed in Section 7.07 of this Act. For the purposes of this subsection the terms "state form" and "form" shall mean any document or piece of paper used by a state agency requesting or transmitting information, printed or reproduced by whatever means, usually with blank spaces for the entry of additional information to be used in any transaction between the State of Illinois and private sector businesses. These include but are not limited to grant applications,

licensing applications, permit applications, and request for proposal applications, but do not include books, pamphlets, newsletters and intra-agency forms which do not affect the rights of or procedures available to persons or entities outside the State agency. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 81-1044, effective October 1, 1979; Amended by PA 83-1341, effective September 7, 1984)

Section 7.06a. JOINT COMMITTEE STATEMENT ON PROPOSED RULE, AMENDMENT OR REPEALER OBJECTIONABLE UNDER COMMITTEE'S REVIEW STANDARDS) (a) If the Joint Committee determines that adoption and effectiveness of a proposed rule, amendment or repealer or portion of a proposed rule, amendment or repealer by an agency would be objectionable under any of the standards for the Joint Committee's review specified in Sections 7.04, 7.05, 7.06, 7.07 or 7.08 of this Act and would constitute a serious threat to the public interest, safety or welfare, the Joint Committee may at any time prior to the taking effect of such proposed rule, amendment or repealer issue a statement to that effect. Such statement may be issued by the Joint Committee only upon the affirmative vote of three-fifths of the members appointed to the Joint Committee. A certified copy of such statement shall be transmitted to the proposing agency and to the Secretary of State for publication in the next available issue of the Illinois Register.

(b) The proposed rule, amendment or repealer or the portion of the proposed rule, amendment or repealer to which the Joint Committee has issued a statement under subsection (a) shall not be accepted for filing by the Secretary of State nor take effect for at least 180 days from receipt of the statement by the Secretary of State. The agency may not enforce or invoke for any reason a proposed rule, amendment or repealer or any portion thereof which is prohibited from being filed by this subsection during this 180 day period.

(c) The Joint Committee shall, as soon as practicable after the issuance of a statement under subsection (a), introduce in either house of the General Assembly a Joint resolution stating that the General Assembly desires to continue the prohibition of the proposed rule, amendment or repealer or the portion thereof to which the statement was issued from being filed and taking effect. The joint resolution shall immediately following its first reading be placed on the calendar for consideration in each house of the General Assembly without reference to a standing committee. If such a joint resolution is passed by both houses of the General Assembly within the 180 day period provided in subsection (b), the agency shall be prohibited from filing the proposed rule, amendment or repealer or the portion thereof and the proposed rule, amendment or repealer or the portion thereof shall not take effect. The Secretary of State shall not accept for filing the proposed rule, amendment or repealer or the portion thereof which the General Assembly has prohibited the agency from filing as provided in this subsection. If the 180 day period provided in subsection (b) expires prior to passage of the joint resolution, the agency may file the proposed rule, amendment or repealer or the portion thereof as adopted and it shall take effect. (Added by PA 81-1514, effective January 1, 1981; Amended by PA 82-372, effective September 2, 1981)

Section 7.07. EXAMINATION OF RULE BY THE JOINT COMMITTEE - DETERMINATION) (a) The Joint Committee may examine any rule for the purpose of determining whether the rule is within the statutory authority upon which it is based, and whether the rule is in proper form.

(b) If the Joint Committee objects to a rule, it shall, within 5 days of the objection, certify the fact to the adopting agency and include within the certification a statement of its specific objections.

(c) Within 90 days of receipt of the certification, the agency shall:

1. Notify the Joint Committee that it has elected to amend the rule to meet the Joint Committee's objection;
2. Notify the Joint Committee that it has elected to repeal the rule, or;
3. Notify the Joint Committee that it refuses to amend or repeal the rule.

(d) If the agency elects to amend a rule to meet the Joint Committee's objections, it shall notify the Joint Committee in writing and shall initiate rulemaking procedures for that purpose by giving notice as required by Section 5 of this Act. The Joint Committee shall give priority to rules so amended when setting its agenda.

(e) If the agency elects to repeal a rule as a result of the Joint Committee objections, it shall notify the Joint Committee, in writing, of its election and shall initiate rulemaking procedures for that purpose by giving notice as required by Section 5 of this Act.

(f) If the agency elects to amend or repeal a rule as a result of the Joint Committee objections, it shall complete the process within 180 days after giving notice in the Illinois Register.

(g) Failure of the agency to respond to the Joint Committee's objections to a rule within the time prescribed in subsection (c) shall constitute a refusal to amend or repeal the rule.

(h) If an agency refuses to amend or repeal a rule so as to remedy an objection stated by the Joint Committee, it shall notify the Joint Committee in writing of its refusal and shall submit a notice of refusal to the Secretary of State which shall be published in the next available issue of the Illinois Register. If the Joint Committee, in response to an agency refusal, decides to recommend legislative action, then the Joint Committee shall have drafted and have introduced into either house of the General Assembly appropriate legislation to implement the recommendations of the Joint Committee. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 81-1044, effective October 1, 1979)

Section 7.07a. JOINT COMMITTEE STATEMENT ON RULE ADOPTED UNDER SECTIONS 5.02 OR 5.03 AND DEEMED OBJECTIONABLE UNDER COMMITTEE'S REVIEW STANDARDS) (a) if the Joint Committee determines that a rule or portion of a rule adopted under Sections 5.02

or 5.03 of this Act is objectionable under any of the standards for the Joint Committee's review specified in Sections 7.04, 7.05, 7.06, 7.07, or 7.08 of this Act and constitutes a serious threat to the public interest, safety or welfare, the Joint Committee may issue a statement to that effect. Such statement may be issued by the Joint Committee only upon the affirmative vote of three-fifths of the members appointed to the Joint Committee. A certified copy of such statement shall be transmitted to the affected agency and to the Secretary of State for publication in the next available issue of the Illinois Register.

(b) The effectiveness of the rule or the portion of a rule shall be suspended immediately for at least 180 days upon receipt of the certified statement by the Secretary of State. The Secretary of State shall indicate such suspension prominently and clearly on the face of the affected rule or the portion of a rule filed in the Office of the Secretary of State. Rules or portions of rules suspended in accordance with this subsection shall become effective again upon the expiration of 180 days from receipt of the statement by the Secretary of State if the General Assembly does not continue the suspension as provided in subsection (c). The agency may not enforce, nor invoke for any reason, a rule or portion of a rule which has been suspended in accordance with this subsection. During the 180 day period, the agency may not file, nor may the Secretary of State accept for filing, any rule having substantially the same purpose and effect as rules or portions of rules suspended in accordance with this subsection.

(c) The Joint Committee shall, as soon as practicable after issuance of a statement under subsection (a), cause to be introduced in either house of the General Assembly a joint resolution stating that the General Assembly desires to continue the suspension of effectiveness of a rule or the portion of the rule to which the statement was issued. The joint resolution shall immediately following its first reading be placed on the calendar for consideration in each house of the General Assembly without reference to a standing committee. If such a joint resolution is passed by both houses of the General Assembly within the 180 day period provided in subsection (b), the rule or the portion of the rule shall be considered repealed and the Secretary of State shall immediately remove such rule or portion of a rule from the collection of effective rules. (Added by PA 81-1514, effective January 1, 1961; Amended by PA 82-372, effective September 2, 1981)

Section 7.08. PERIODIC EVALUATION OF RULES BY JOINT COMMITTEE - CATEGORIES) (a) The Joint Committee shall evaluate the rules of each agency at least once every 5 years. The Joint Committee, by rule shall develop a schedule for this periodic evaluation. In developing this schedule, the Joint Committee shall group rules by specified areas to assure the evaluation of similar rules at the same time. Such schedule shall include at least the following categories:

1. human resources;
2. law enforcement;
3. energy;
4. environment;
5. natural resources;
6. transportation;

7. public utilities;
8. consumer protection;
9. licensing laws;
10. regulation of occupations;
11. labor laws;
12. business regulation;
13. financial institutions; and
14. government purchasing.

(b) Whenever evaluating any rules as required by this Section the Joint Committee's review shall include an examination of:

1. organizational, structural and procedural reforms which effect rules or rulemaking;
2. merger, modification, establishment or abolition of regulations;
3. eliminating or phasing out outdated, overlapping or conflicting regulatory jurisdictions or requirements of general applicability; and
4. economic and budgetary effects. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 81-1035, effective October 1, 1979)

Section 7.09. ADMINISTRATION OF ACT) The Joint Committee shall have the authority to adopt rules to administer the provisions of this Act relating to the Joint Committee's responsibilities, powers and duties. (Added by PA 80-1035, effective September 27, 1977)

Section 7.10. REPORT OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS BY THE JOINT COMMITTEE) The Joint Committee shall report its findings, conclusions and recommendations including suggested legislation to the General Assembly by February 1, of each year.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Council, as required by Section 3.1 of "An Act to revise the law in relation to the General Assembly", approved February 25, 1874, as amended, and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 83-784, effective January 1, 1984)

Section 8. PETITION FOR ADOPTION OF RULES) (a) An agency shall, in accordance with Section 5, adopt rules which implement recently enacted legislation of the General Assembly in a timely and expeditious manner.

(b) Any interested person may petition an agency requesting the promulgation, amendment or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration and disposition. If, within 30 days after submission of a petition, the agency has not initiated rulemaking

proceedings in accordance with Section 5 of this Act, the petition shall be deemed to have been denied. (PA 79-1083; Amended by PA 83-529, effective January 1, 1984)

Section 9. DECLARATORY RULINGS BY AGENCIES) Each agency may in its discretion provide by rule for the filing and prompt disposition of petitions or requests for declaratory rulings as to the applicability to the person presenting the petition or request of any statutory provision enforced by the agency or of any rule of the agency. Declaratory rulings shall not be appealable. The agency shall maintain as a public record in the agency's principal office and make available for public inspection and copying any such rulings. The agency shall delete trade secrets or other confidential information from the ruling prior to making it available. (PA 79-1083; Amended by PA 82-727, effective November 12, 1981)

Section 10. CONTESTED CASES - NOTICE - HEARING) (a) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. Such notice shall be served personally or by certified or registered mail upon such parties or their agents appointed to receive service of process and shall include:

1. a statement of the time, place and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
3. a reference to the particular Sections of the statutes and rules involved; and
4. except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted.

(b) Opportunity shall be afforded all parties to be represented by legal counsel, and to respond and present evidence and argument.

(c) Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. (PA 79-1083)

Section 11. RECORD IN CONTESTED CASES) (a) The record in a contested case shall include:

1. all pleadings (including all notices and responses thereto), motions and rulings;
2. evidence received;
3. a statement of matters officially noticed;
4. offers of proof, objections and rulings thereon;
5. proposed findings and exceptions;
6. any decision, opinion or report by the hearing examiner;
7. all staff memoranda or data submitted to the hearing examiner or members of the agency in connection with their consideration of the case; and
8. any communication prohibited by Section 15 of this Act, but such communications shall not form the basis for any finding of fact.

(b) Oral proceedings or any part thereof shall be recorded stenographically or by such other means as to adequately insure the preservation of such testimony or oral proceedings and shall be transcribed on request of any party.

(c) Findings of fact shall be based exclusively on the evidence and on matters officially noticed. (PA 79-1083; Amended by PA 82-783, effective July 13, 1982)

Section 12. RULES OF EVIDENCE - OFFICIAL NOTICE) In contested cases: (a) Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the Circuit Courts of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.

(b) Subject to the evidentiary requirements of subsection (a) of this Section, a party may conduct cross-examination required for a full and fair disclosure of the facts.

(c) Notice may be taken of matters of which the Circuit Courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence. (PA 79-1083)

Section 13. PROPOSAL FOR DECISION) Except where otherwise expressly provided by law, when in a contested case a majority of the officials of the agency who are to render the final decision has not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the agency, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and to present a brief and, if the agency so permits, oral argument, to the agency officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the persons who conducted the hearing or one who has read the record. (PA 79-1083)

Section 14. DECISIONS AND ORDERS) A final decision or order adverse to a party (other than the agency) in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the

findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties or their agents appointed to receive service of process shall be notified either personally or by registered or certified mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

A decision by any agency in a contested case under this Act shall be void unless the proceedings are conducted in compliance with the provisions of this Act relating to contested cases except to the extent such provisions are waived pursuant to Section 18 of this Act and except to the extent the agency has adopted its own rules for contested cases as authorized in Section 2 of this Act. (PA 79-1083; Amended by PA 86-1035, effective September 27, 1977)

Section 14.1 EXPENSES - ATTORNEY FEES) (a) In any contested case initiated by any agency which does not proceed to court for judicial review and on any issue where a court does not have jurisdiction to make an award of litigation expenses under Section 42.611 of the Civil Practice Law, any allegation made by the agency without reasonable cause and found to be untrue shall subject the agency making such allegation to the payment of the reasonable expenses, including reasonable attorney's fees, actually incurred in defending against that allegation by the party against whom the case was initiated.

The claimant shall make his demand for such expenses to the agency. If the claimant is dissatisfied because of the agency's failure to make any award or because of the insufficiency of the agency's award, the claimant may petition the Court of Claims for the amount deemed owed. If allowed any recovery by the Court of Claims, the claimant shall also be entitled to reasonable attorney's fees and the reasonable expenses incurred in making his claim for the expenses incurred in the administrative action.

(b) In any case in which a party has any administrative rule invalidated by a court for any reason, including but not limited to the agency's exceeding its statutory authority or the agency's failure to follow statutory procedures in the adoption of the rule, the court shall award the party bringing the action the reasonable expenses of the litigation, including reasonable attorney's fees. (Added by PA 82-670, effective January 1, 1982; Amended by PA 82-1057, effective February 11, 1983)

Section 15. EX PARTE CONSULTATIONS) Except in the disposition of matters which they are authorized by law to entertain or dispose of on an ex parte basis, neither agency members, employees nor hearing examiners shall, after notice of hearing in a contested case or licensing to which the procedures of a contested case apply under this Act, communicate, directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or his representative, except upon notice and opportunity for all parties to participate. However, an agency member may communicate with other members of the agency, and an

agency member or hearing examiner may have the aid and advice of one or more personal assistants. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977)

Section 16. LICENSES) (a) When any licensing is required by law to be preceded by notice and opportunity for hearing, the provisions of this Act concerning contested cases shall apply.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall continue in full force and effect until the final agency decision on the application has been made unless a later date is fixed by order of a reviewing court.

(c) No agency shall revoke, suspend, annul, withdraw, amend materially, or refuse to renew any valid license without first giving written notice to the licensee of the facts or conduct upon which the agency will rely to support its proposed action, and an opportunity for hearing in accordance with the provisions of this Act concerning contested cases. At any such hearing, the licensee shall have the right to show compliance with all lawful requirements for the retention, or continuation or renewal of the license. If, however, the agency finds that the public interest, safety or welfare imperatively requires emergency action, and if the agency incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action which proceedings shall be promptly instituted and determined.

Any application for renewal of a license which contains required and relevant information, data, material or circumstances which were not contained in an application for the existing license, shall be subject to the provisions of Section 16(a) of this Act. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977)

Section 17. RATE-MAKING) Every agency which is empowered by law to engage in rate-making activities shall establish by rule, not inconsistent with the provisions of law establishing such rate-making jurisdiction, the practice and procedure to be followed in rate-making activities before such agency. (PA 79-1083)

Section 18. WAIVER) Compliance with any or all of the provisions of this Act concerning contested cases may be waived by written stipulation of all parties. (PA 79-1083)

Section 19. (PA 79-1083; Repealed as of January 1, 1978, by PA 80-1035, effective September 27, 1977)

Section 20. SEVERABILITY) If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are severable. (PA 79-1083)

Section 21. EFFECTIVE DATE) This Act takes effect upon its becoming a law. (PA 79-1063, effective September 22, 1975)

The Act:Act

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